

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.5716 of 2024 (O&M)
Date of decision: 13.03.2024

Vinod Kumar
.....Petitioner
Versus
State of Punjab and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Vishneet Singh Kathpal, Advocate
for the petitioner.

Mr. Rajesh Sehgal, Addl. A.G., Punjab.

NAMIT KUMAR J. (Oral)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of certiorari, for quashing the Resolution dated 28.12.2015 (Annexure P-1) whereby he has been dismissed from service.
2. The brief facts, as have been pleaded in the present petition, are that the petitioner was working as Salesman at Waryam Khera, Cooperative Agriculture Service Society Limited at village Waryam Khera, Tehsil Abohar, District Fazilka (hereinafter to be referred to as 'the Society'). The charge of fertiliser, feed, agro chemicals, etc. was in the custody of petitioner. On 10-8-2011, the stock of Society was checked by the concerned Circle Inspector, and he found shortage of stock of approximately Rs.2,40,762/-. Thereafter, the petitioner submitted reply to the concerned Circle Inspector and he was

2024:PHHC:036183

granted time to deposit the money upto 25.08.2011. Thereafter, a letter was also issued to the President of the Society by the concerned Circle Inspector that if he failed to deposit the money upto 25-8-2011 then, disciplinary action would be taken against him in accordance with Service Rules 1997. Thereafter, the petitioner remained absent from the Society from 20-08-2011 to 04-09-2011 and he came back to society on 05-09-2011 and the stock in-charge of the petitioner was handed over by him to Sh. Rajesh Kumar Salesmen, and vide Resolution dated 13-09-2011, he was suspended by the Managing Committee of the Society. Thereafter, vide resolution No.1 dated 13-09-2011, a sub-committee was formed to take disciplinary action against the petitioner and thereafter, a chargesheet was issued to him on 16-01-2012 and 15-05-2013. However, in the meantime, to recover the embezzled amount from the petitioner, an arbitration case amounting to Rs. 2,26,655/- (principal) + Rs.10,991/- (interest) + Rs.250/- (cost) i.e. a total amount of Rs.2,37,896/- was filed against the petitioner, which was decided in favour of the Society, and the petitioner was directed to deposit the said amount along with 10% interest. Thereafter, the sub-committee of the Society vide its Resolution No.1 dated 23-12-2015, recommended dismissal of the petitioner from services. Thereafter, on the recommendation of the sub-committee, the Managing Committee of the Society, vide its Resolution dated 28.12.2015, terminated the services of the petitioner.

3. Being aggrieved against the said Resolution dated 28.12.2015 (Annexure P-1), the petitioner filed an appeal under the

2024:PHHC:036183

Service Regulation, 1997 before the Deputy Registrar, Cooperative Societies, Fazilka and the same was dismissed being time barred as the appeal was to be filed within 60 days from the date of penalty, however, the appeal dated 15.12.2022, was filed by the petitioner after a lapse of about 07 years, however, the same was rejected on 05.06.2023. The operative part of the said order, reads as under:-

“XXXX XXXX XXXX XXXX

Order:-

After considering the Appeal filed by Vinod Kumar and statement given by the Secretary of the society, it is found that Shri. Vinod Kumar son of Om Parkash resident of village Waryam Khera was dismissed from service vide resolution dated 28.12.2015. In this regard, Shri. Vinod Kumar has sought time to file his reply. On 31.05.2023 Shri. Vinod Kumar has filed his reply in this office.

This appeal is heard as per the Rule 15(i) of the Punjab State Co-operative Agriculture Societies Service Rule, 1997. The relevant rule is reproduced hereunder:-

15. APPEAL

(i) And Employee shall have a right to file an appeal against an order imposing any of the penalties specified in Rule 14 before the Deputy Registrar Co-operative Societies within 60 days.

According to this Shri Vinod Kumar son of Shri Om Parkash has to file an appeal against the resolution dated 28.12.2015 before this court within 60 days. Shri Vinod Kumar has filed this appeal with a delay of approx. of 7 years. In this regard, the reply given by Shri Vinod Kumar was not considered as appropriate. Due to

2024:PHHC:036183

this reason the appeal is dismissed in view of the Rule 15(ii) of the Punjab State Co-operative Agriculture Societies Service Rule 1997. The file be consigned to record room.

*Date: 05.06.2023
Place: Fazilka*

*Sd/-
Sonu Mahajan (P.C.S.-1)
Deputy Registrar
Co-operative Society, Fazilka.”*

4. Feeling aggrieved against the said orders dated 28.12.2015 (Annexure P-1) and 05.06.2023 (Annexure P-3), the petitioner preferred a revision petition before the Joint Registrar, Cooperative Societies, Ferozepur Division, Ferozepur, which was also dismissed by the said authority vide order dated 26.09.2023. The relevant part of the said judgment, reads as follows:-

“XXXX XXXX XXXX XXXX

a) *Whether the present matter is time barred.*

So far as the first issue is concerned, the record of society and the lower court was perused very minutely. It is evident from the record that the services of the petitioner were terminated by the respondent No. 1 society vide its resolution dated 28.12.2015, and an appeal against this dismissal was filed in lower court on 15- 12-2022 after the lapse of 83 months and 17 days, whereas according to Rule 15(i) of the Service Rules 1997, the appeal against the penalty was to file preferential within 60 days. It is also evident from the record that proper opportunities were offered by the respondent No. 1 society to the petitioner before the dismissal of his services; however, he intended to keep himself away from society and remained absent from society. It is inevitable to add here that when the disciplinary proceedings were initiated against the

2024:PHHC:036183

petitioner, it was his responsibility to present his part; however, he did not appear before the managing committee. It is also apparent to add that the Service Rules 1997 give no power to the learned lower court or to this court to condone the delay in cases of appeals and revision petitions filed under the Service Rules 1997. Therefore, the issue is decided in favour of respondent No. 1 society.

Consequently, in view of the above detailed discussion, the court is of the considered view that the orders of the lower court are truly passed in the shadow of the Service Rules of 1997 do not deserve interference from this court. Therefore, the revision petition is not maintainable and same is dismissed. Order which was kept reserved on 19-9-2023 has been written on 26-9-23. The order of lower court connected to this case is upheld. Record of lower court be sent back and file be consigned to record room for record.

Date:-26-9-2023

*Umesh PCS-1
Joint Registrar,
Cooperative Societies, Ferozepur,
Division Ferozepur.”*

5. Thus, aggrieved against the aforesaid orders dated 28.12.2015 (Annexure P-1), 05.06.2023 (Annexure P-3) and 26.09.2023 (Annexure P-4), the petitioner has filed the present writ petition.

6. Learned counsel for the petitioner submits that the petitioner was not given any opportunity of hearing while passing the Resolution dated 28.12.2015 (Annexure P-1), whereby the petitioner was dismissed from service.

7. I have heard learned counsel for the petitioner and perused the record.

8. From the perusal of the record, it is clear that the petitioner

2024:PHHC:036183

was placed under suspension on 13.09.2011 and thereafter, vide Resolution dated 13.09.2011, a sub-committee was formed to take disciplinary action against the petitioner and thereafter, charge-sheet dated 16.01.2012, was issued against the petitioner, wherein it was alleged that the charge of fertilizers, feed, agrochemicals, etc. was with the petitioner. On 10.08.2011, the stock of the Society was checked by the concerned Circle Inspector and he found a shortage of stock of approximately Rs.2,40,762/-. Thereafter, the petitioner submitted reply to the concerned Circle Inspector and he was granted time to deposit the money upto 25.08.2011. Thereafter, a letter was issued to the President of the Society by the concerned Circle Inspector that if the petitioner fails to deposit the money upto 25.08.2011, then disciplinary action would be taken against him in accordance with Service Rule, 1997 and thereafter, the petitioner remained absent from the Society from 20.08.2011 to 04.09.2011 and came back to the Society on 05.09.2011 and the stock incharge of the petitioner was handed over by him to Sh. Rajesh Kumar, Salesman. However in the meanwhile, in order to recover the embezzled amount from the petitioner, an arbitration case amounting to Rs.2,26,655/- (principal) + Rs.10,991/- (interest) + Rs.250/- (cost) i.e. total amount of Rs.2,37,896/- was filed against the petitioner, which was decided in favour of the Society, and the petitioner was directed to deposit the said amount along with 10% interest. Thereafter, the sub-committee of the Society vide its Resolution No.1 dated 23-12-2015, recommended dismissal of the petitioner from services. Thereafter, on the recommendation of the sub-committee, the

2024:PHHC:036183

Managing Committee of the Society, vide its Resolution dated 28.12.2015, terminated the services of the petitioner.

9. The petitioner kept mum for a period of about 07 years. No reasons have been given as to why the petitioner could not agitate his claim during the said long period and thereafter, preferred an appeal dated 15.12.2022, which was dismissed by the Appellate Authority vide order dated 05.06.2023, being barred by limitation and even the revision petition filed by the petitioner was rejected by the Revisional Authority vide order dated 26.09.2023 on the same ground whereas he was required to file appeal in a stipulated period of 60 days in terms of relevant Service Rules, 1997. Since there was a huge and inordinate delay of about 07 years in filing the appeal before the Appellate Authority, therefore, the same has rightly been rejected by the Appellate Authority vide order dated 05.06.2023, which has been rightly upheld by the Revisional Authority.

10. In this view of the matter, no interference is called for by this Court in the writ jurisdiction.

11. Consequently, the present petition is dismissed.

(NAMIT KUMAR)
JUDGE

13.03.2024
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No