



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.7080 of 2024 (O&M)
Date of decision: 10.05.2024

Gurvinder Pal Singh Aneja
....Petitioner
Versus
State of Punjab and others
....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Chahat Goyal, Advocate
for the petitioner.

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

Mr. Rahul Sharma-I, Advocate
for respondent No.3.

NAMIT KUMAR J. (Oral)

1. Prayer in this writ petition filed by the petitioner under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari, for quashing the order dated 24.01.2024 (Annexure P-2), vide which the petitioner has been transferred from Bhogpur, Cooperative Sugar Mills to Budhewal, Cooperative Sugar Mills and the order dated 29.02.2024 (Annexure P-3), vide which respondent No.4, has been given officiating charge for the post of General Manager, Budhewal, Cooperative Sugar Mills, till further orders, due to retirement of Sh. A.K. Tiwari, Chief Chemist (officiating General Manager, Budhewal, Cooperative Sugar Mills). Further a writ of mandamus has been sought for directing the respondents to designate



the petitioner to the post of officiating General Manager, in view of Rule 2.71 of the Punjab State Cooperative Sugar Mills Service (Common Cadre) Rules, 1981 (in short 'the Rules').

2. The grievance of the petitioner in the present writ petition is that vide order dated 29.02.2024, respondent No.4, who is junior to the petitioner, has been given the officiating charge of the post of General Manager at Budhewal, Cooperative Sugar Mills, whereas the petitioner, who is senior to respondent No.4, has been appointed as Chief Chemist at Budhewal, Cooperative Sugar Mills.

3. It has been averred in the petition that earlier the petitioner was officiating as General Manager at Bhogpur, Cooperative Sugar Mills and was transferred to Budhewal, Cooperative Sugar Mills, against the post of Chief Chemist and vide impugned order dated 24.01.2024, the charge of officiating General Manager of Bhogpur, Cooperative Sugar Mills, has been handed over to one Surinderpal, Chief Chemist. It has further been stated that respondent No.4, who is junior to the petitioner has been given additional charge of officiating General Manager of Cooperative Sugar Mills, Budhewal vide order dated 29.02.2024 (Annexure P-3) and consequently, the orders dated 24.01.2024 (Annexure P-2) and 29.02.2024 (Annexure P-3), are illegal and arbitrary and are liable to be set-aside.

4. On receipt of advance copy of writ petition, written statement on behalf of respondent No.3 i.e. Punjab State Federation of Cooperative Sugar Mills Limited (Sugarfed), has been filed, wherein it has been stated as under:-



“2. That due to exigencies of service, the petitioner had earlier been given the officiating charge of the post of General Manager of the Bhogpur Co-operative Sugar Mills Ltd. and he worked there from 01.12.2022 to 25.01.2024. During this period, the performance of the Bhogpur Sugar Mill during the crushing season 2022-23 was not satisfactory. Further, the performance of the Bhogpur Sugar Mill during the crushing season 2023-24 was also not up to the mark. Apart from this, despite of sending various letters to the petitioner, he while working as officiating General Manager at Bhogpur Cooperative Sugar Mills has failed to submit the detailed report to the answering respondent about re-commissioning of 15 MW Power Turbine and to get the health certificate from M/s Triveni Turbines Limited, Bangalore, which otherwise was very much required to run the plant smoothly before the start of the crushing season 2023-24. As a result, the petitioner was transferred to the Budhewal Co-operative Sugar Mills Ltd. to his substantive post of "Chief Chemist" on 24.01.2024 vide Order, Annexure P-2.

On the other hand, respondent No.4 was given the officiating charge of the post of General Manager of the Morinda Co-operative Sugar Mill and during the crushing season 2023-24, the Morinda Sugar Mill emerged as one of the best performing Co-operative Sugar Mill in the State of Punjab, especially in terms of sugar recovery.

Accordingly, respondent No.4 has been given the Additional officiating charge of the post of General Manager of the Budhewal Cooperative Sugar Mill vide Order, Annexure P-3.

It is pertinent to mention here that after the posting of respondent No.4 as the General Manager of the Budhewal Cooperative Sugar Mill, the performance of

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Budhewal Sugar Mill for the crushing season 2023-24 has improved over the previous crushing season, i.e. 2022-23.

It may also be stated here that the petitioner is also facing disciplinary proceedings, for which show-cause notices dated 15.01.2024 and 25.01.2024 have been served upon him.

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3. That the reliance of the petitioner upon Rule 2.71 of the Punjab State Cooperative Sugar Mills Service (Common Cadre) Rules, 1981, is also misplaced as the same is not attracted in the present case.

Rule 2.71 of the Punjab State Cooperative Sugar Mills Service (Common Cadre) Rules, 1981, reads as under:

"2.71 – The Chief Executive Officer shall be competent to post any employee of the service from one mills to another mills against an equivalent post. In exigency of service, the Chief Executive Officer may transfer the Head Quarters of any employee of a mills to the Head Quarter of the Sugarfed temporarily. The emoluments for the period during the transfer of such an employee shall be paid by the mills from where he has been transferred."

As stated before, the substantive post of the petitioner is that of "Chief Chemist". He has been posted as Chief Chemist in the Budhewal Co-operative Sugar Mills Ltd."

5. Admittedly, the substantive post of the petitioner is that of Chief Chemist and he has been posted as Chief Chemist in Budhewal, Cooperative Sugar Mills and, therefore, he cannot have any grievance with the impugned order dated 24.01.2024 (Annexure P-2). Further as



per Rule 2.71 of the Rules, the Chief Executive Officer is competent to post any employee from one mill to another, against an equivalent post. There is no violation of Rule 2.71 of the Rules. It has been held by the Hon'ble Supreme Court in ***“State of Haryana vs S.M. Sharma and others”***, 1993 SCC (L&S) 1072, that no one has a right to ask for or stick to a current duty charge. The operative part of the said judgment, reads as under:-

“We are constrained to say that the High Court extended its extraordinary jurisdiction under Article 226 of the Constitution of India to a current duty charge. The impugned order did not cause any financial loss or prejudice of any kind to Sharma. He had no cause of action whatsoever to invoke the writ jurisdiction of the High Court. It was a patent misuse of the process of the court.”

6. Further it has been held by this Court in **CWP No.13742 of 2012**, titled as ***“Ganesh Kumar and others vs State of Punjab and others”***, decided on 27.07.2012 that grant of additional/officiating/current duty charge of the higher post would be at sole discretion and such arrangement is made in exigency of service.

The relevant para of the said judgment, reads as follows:-

“3. It is by now well settled that the grant of additional/officiating/current duty charge of the higher post would be at the sole discretion of the employer and such arrangement is made in the exigency of service. No employee is vested with the right to claim the grant of the current duty charge/officiating charge of the higher post.....”

7. Accordingly, in this view of the matter, no case to interfere

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with the impugned orders dated 24.01.2024 (Annexure P-2) and 29.02.2024 (Annexure P-3), is made out.

8. Dismissed.

(NAMIT KUMAR)
JUDGE

10.05.2024

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