

2024:PHHC:155455



104/105+218

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1). CM-17550-CWP-2024 in/and
CWP-21514-2020
Date of Decision: 08.11.2024

Minakshi Nanda		...Petitioner
	Versus	
State of Punjab and others		...Respondents
	and	

(2). CWP-11091-2020

Navneet Mahajan		...Petitioner
	Versus	
State of Punjab and others		...Respondents
	and	

(3). CWP-12858-2020

Varun Mahajan and another		...Petitioners
	Versus	
State of Punjab and others		...Respondents
	and	

(4). CM-17567-CWP-2024 in/and
CWP-21515-2020

Pawaneshwar Singh Guleria		...Petitioner
	Versus	
State of Punjab and others		...Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. S.K. Choudhary, Advocate
for the petitioner in CWP-11091-2020 and CWP-12858-2020.

Mr. Aman Sharma, Advocate and
Mr. Sital Sharma, Advocate
for the petitioner in CWP-21514-2020 and CWP-21515-2020.

Mr. Surya Kumar, AAG, Punjab

Mr. H.S. Bedi, Advocate
for respondent No.3-Bank in CWP-11091-2020
and CWP-12858-2020.

Mr. Ashwani Prashar, Advocate
for respondent Nos.3 to 5 in CWP-21514 and
for respondent Nos.3 and 4 in CWP-21515-2020.

Mr. Ishant Arora, Advocate for
Mr. Mohit Sadana, Advocate
for respondent No.5 in CWP-21515-2020

NAMIT KUMAR, J. (ORAL)

CM-17550-CWP-2024 & CM-17567-CWP-2024

Application(s) under Section 151 CPC for placing on record additional affidavit along with Annexures A-1 to A-3, have been filed.

In view of the averments made in the applications, duly supported by affidavits, same are allowed subject to all just exceptions. Documents are taken on record. Office to tag the same at an appropriate place.

CMs stands disposed of.

Main cases

1. This order shall dispose of four petitions i.e. CWP-21514-2020, CWP-11091-2020, CWP-12858-2020 & CWP-21515-2020 as common question of facts and law are involved therein for adjudication. For the sake of brevity, facts have been taken from CWP-21514-2020 titled as Minakshi Nanda Vs. State of Punjab and others.

2. The present civil writ petition has been filed under Article 226/227 of the Constitution of India seeking quashing of the impugned order dated 04.06.2020 (Annexure P-4) and impugned letter dated 20.06.2020 (Annexure P-6) whereby the petitioner who was posted at Pathankot has been sent on deputation to Moga, without her consent.

3. The basic grievance raised in all these writ petitions is that petitioner(s) have been transferred out of their cadre on deputation from the Hindu Co-operative Bank, Pathankot to other Central Cooperative Banks

without their consent. The petitioner (in CWP-21514-2020) has been transferred, vide order dated 04.06.2020 (Annexure P-4) from Pathankot to Moga whereas the petitioners were sent on deputation to various Central Cooperative Banks against vacant posts of clerks/peons. The said order has further been modified vide order dated 09.09.2024 (Annexure A-3) whereby petitioner has now been transferred to Gurdaspur, Central Cooperative Bank.

4. In the reply filed by respondent No.4-the Hindu Cooperative Bank Ltd. it has been stated as under:-

“That earlier the bank was making profits but due to mismanagement of the earlier Managing Director and the Board of Directors, the bank incurred heavy loss because of NPAs. Due to increase in NPAs, the Reserve Bank of India (in short the RBI) has imposed supervisory action framework (SAF) on 17.12.2013. Eventually the Board of Directors of the bank was suspended on 11.5.2018 and Administrator was appointed to run the affairs of the bank. The bank incurred cumulative losses to the tune of Rs. 55.78 crores as per audit report of year 2019. Then RBI in view of worsening financial position of the bank, imposed all inclusive directions on the bank on 25.3.2019. A special investigation team (in short the SIT) was formed by the then Deputy Commissioner, Pathankot under the Presidentship of ADC, Pathankot, SP (HQ), SDM Pathankot and 2 bank employees as members to look into the cause of such position of the bank. After the report was submitted by the SIT, Principal Secretary, Govt. of Punjab directed the concerned authorities to take suitable action as pointed out in the report and consequently an FIR no.42 dated 13.5.2019 was lodged against 4 senior most officers of the bank including Ex. Managing Director, Shri Suresh Gupta. The RBI constituted a state level task force on Cooperative Urban Bank (in short the TAFCUB) to monitor working of the Urban Cooperative banks in each state. In the meeting of the TAFCUB held on 1.2.2019, position of the bank was evaluated and it was recommended to the RBI that the earlier action is required to protect the interest of the depositors. It was after this meeting that sanctions were imposed on the bank u/s 35-A of the Banking Regulation Act on 25.3.2019, under which the normal banking

operations of the bank were not allowed and the primary aim was to revive the bank. There were specific directions that there is over staffing in the bank and the same should be reduced.

6. That though the bank was advised to retrench the excess staff and to proceed against the non performing staff members, but after due deliberations it was considered that since the employees were working in the bank for a considerable length of period, it was decided that with the help of the State Govt., let the excess staff be sent on deputation to other Cooperative Banks, which have better financial position than the bank in the State of Punjab. To this effect resolution dated 2.6.2020 was passed by the bank on which approval was granted by the Registrar Cooperative Societies, Punjab for transfer/deputation of the employees from the Bank to other Central Cooperative Banks.

7. That after receiving approval dated 04.06.2020 from respondent no.2, letter dated 20.6.2020 was issued to different employees including the petitioner to join at the place of deputation. Since this action has been taken for reviving the financial health of the bank and no employee has been retrenched even after imposing direction by the RBI, the petitioner should not have any grievance. Thus in view of submission made above, the present Petition may kindly be dismissed.”

5. Learned counsel for the petitioner has referred to the averments made in para No.4 of the additional affidavit in CM-17550-CWP-2024 to contend that various similarly situated employees have been re-transferred to their parent bank i.e. Hindu Cooperative Bank, Pathankot and the relevant portion of the same is as under:-

“4. That it has come to the knowledge of the applicant/ petitioner that employees who were sent on deputation alongwith the applicant/petitioner vide Impugned Order (P-4) have been deputed back at Hindu Cooperative Bank, Pathankot. The list of the employees who have been deputed and are working at Hindu Cooperative Bank, Pathankot w.e.f. 01.05.2023 is as under:-

Sr No	Name of employee	Designation	Place of deputation	Place of present posting w.e.f. 01.05.2023
1	Jyoti	Clerk	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
2	Jugesh s/o	Clerk	The Muktsar Central	Hindu Cooperative

	Parshotam		Cooperative Bank Ltd.	Bank, Pathankot
3	Avnish Puri	Clerk	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
4	Bindu Bala	Clerk	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
5	Pawan s/o Gurbachan	Clerk	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
6	Aman Sharma	Clerk	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
7	Suman Sharma	Clerk	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
8	Renu Mahajan	Clerk	The Moga Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
9	Pooja w/o Manu	Clerk	The Moga Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
10	Rajiv s/o Krishan	Jr. Acctt.	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
11	Anshoo Nayyar	Jr. Acctt.	The Muktsar Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
12	Snagram Singh	Jr. Acctt.	The Moga Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
13	Parvinder Singh	Peon	The Tarn Taran Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
14	Jarnail Singh	Peon	The Kapurthala Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot
15	Kulwinder Kaur	Peon	The Tarn Taran Central Cooperative Bank Ltd.	Hindu Cooperative Bank, Pathankot

5. That it is further respectfully submitted here that similarly situated employees filed CWP No.8579 of 2020 titled as Payal Chadha and others Vs. State of Punjab and others, whereby they were sent on deputation from Hindu Cooperative Bank, Pathankot to different districts of State of Punjab. In the said petition, the same Impugned Order (P-4) was challenged. The respondents during the pendency of the said petition passed Office Order dated 14.03.2024, deputing back the petitioners to Hindu Cooperative Bank, Pathankot. Copy of the Office Order dated 14.03.2024 is appended herewith as ANNEXURE A-1 and ANNEXURE A-2 respectively.

6. That furthermore, during the pendency of the writ petition, the respondents have passed Office Order dated 09.09.2024 deputing the petitioner from Central Cooperative Bank, Moga to Gurdaspur. Copy of the office order is appended herewith as ANNEXURE A-3.”

6. Learned counsel for the petitioner further submits that the impugned order(s) whereby the petitioner(s) have been sent on deputation to other

Central Cooperative Banks is without their consent and, therefore, the same is liable to be set aside. He further submits that it is a case of discrimination as other employees who were also sent along with petitioner, have been taken back at Pathankot.

7. On the other hand, learned counsel representing the Bank fervently and vehemently opposed the relief sought in the petition and submits that the impugned orders are legal, justifiable and liable to be upheld.

8. I have heard the learned counsel for the parties and perused the record.

9. The only question which has arisen before this Court is *whether the petitioner(s) can be sent on deputation out of their cadre without their consent*. The law on the above said subject is not *res integra* as it has been held that no employee can be sent on deputation to other department without his consent. The reference may be made to the judgment in **State of Punjab and others Vs. Inder Singh and others, (SC): Law Finder Doc Id#17905**.

19. Concept of "deputation" is well understood in service law and has a recognised meaning. 'Deputation' has a different connotation in service law and the dictionary meaning of the word 'deputation' is of no help. In simple words 'deputation' means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per Recruitment Rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. The law on deputation and repatriation is quite settled as we have also seen in various judgments

which we have referred to above. There is no escape for the respondents now to go back to their parent departments and working there as Constables or Head Constables as the case may be.

10. To the same effect are judgments passed by this Court in ***J.S. Yadav Vs. Haryana Dairy Development Cooperative Federation Limited and others***, CWP No.16510 of 2009 decided on 15.01.2010, ***Dr. Gulshan Lal Taneja and others Vs. Maharashi Dayanand University & others***, CWP No.14409 of 2010 decided on 28.08.2012.

11. In view of the above, the impugned order dated 04.06.2020 (Annexure P-4), letter dated 20.06.2020 (Annexure P-6) and order dated 09.09.2024 (Annexure A-3) are hereby set aside and quashed qua the present petitioner and the respondents are directed to post the petitioner to the Hindu Cooperative Bank, Pathankot, within a period of one month.

12. Accordingly, the present four petition(s) are allowed qua the petitioner(s) in above mentioned terms.

08.11.2024
Parveen kumar

(NAMIT KUMAR)
JUDGE

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