

**LPA-3200-2024 (O&M) with LPA-1932-2024 (O&M)  
LPA-3039-2024 (O&M) with LPA-3143-2024 (O&M) and  
LPA-3250-2024 (O&M)**

2024 PHHC-181311-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**1.**

**LPA-3200-2024 (O&M)  
Date of decision: 19.12.2024**

**KARAMJEET SINGH ..... Appellant(s)  
Versus**

**STATE OF PUNJAB AND OTHERS ..... Respondent(s)**

**2.**

**LPA-1932-2024 (O&M)**

**RAVI KUMAR ..... Appellant(s)  
Versus**

**STATE OF PUNJAB AND OTHERS ..... Respondent(s)**

**3.**

**LPA-3039-2024 (O&M)**

**SURINDER SINGH ..... Appellant(s)  
Versus**

**STATE OF PUNJAB AND OTHERS ..... Respondent(s)**

**4.**

**LPA-3143-2024 (O&M)**

**DILBAG SINGH ..... Appellant(s)  
Versus**

**STATE OF PUNJAB AND OTHERS ..... Respondent(s)**

**5.**

**LPA-3250-2024 (O&M)**

**JARNAIL SINGH ..... Appellant(s)  
Versus**

**STATE OF PUNJAB AND OTHERS ..... Respondent(s)**

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

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LPA-3250-2024 (O&M)**

Mr. R.S. Pandher, Senior DAG, Punjab.

Mr. Mayank Sharma, Advocate  
for respondent no.3 (in LPA No.1932 and 3200 of 2024).

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1. This order shall decide LPA-3200-2024, LPA-1932-2024, LPA-3039-2024, LPA-3143-2024 and LPA-3250-2024, which are taken up together for adjudication and decision at request and with consent of learned counsel for the parties. All these appeals arise out of common impugned order dated 30.05.2024, whereby writ petitions filed by present appellants have been dismissed by learned Single Bench.

2. Notice in LPA Nos. 3143 and 3250 of 2024 has not yet been issued but keeping in view the facts and circumstances, Mr. Pandher, represents the State of Punjab in said appeals. In so far as the Cooperative Societies in question is concerned, we do not find necessity of first ensuring service upon said Societies before passing orders in the given factual matrix.

3. Grievance raised by appellants/writ petitioners in their respective writ petitions was qua the action of respondent-Department in altering their date of retirement from 60 years to 58 years, stated to be in contravention to Rule 19-A of the Punjab State Co-operative Agricultural Service Societies Services Rule, 1979 (hereinafter referred to as Rule, 1979). Appellants also challenged relevant communication and notice(s) issued by the Department in this respect.

4. Learned Single Bench on considering the facts and circumstances concluded that as per amendment carried out in Rule 19-A of Rule, 1979, on 24.09.2020, age of retirement of appellants/writ petitioners had been fixed at 58 years except for the post of Peon-cum-Chowkidar, in respect to which the age of retirement was 60 years. Therefore, petitioners, it was held, cannot claim age of retirement to be 60 years as was the case prior to amendment of Rule, 1979.

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5. Learned counsel for appellants submits that all these appeals should be allowed keeping in view decision dated 09.08.2024 of the Co-ordinate Division Bench in CWP-16052-2020 and connected matters. Challenge in the said writ petitions was to the amendment dated 24.09.2020, itself, in Rule 19-A of Rule, 1979, whereby age of retirement of employees of Societies concerned had been reduced. Division Bench vide said decision dated 09.08.2024 in CWP-16052-2020 and other connected matters held the amendment in question to be ultra vires Section 85(3) of Punjab Co-operative Societies Act, 1961, therefore, impugned order dated 30.05.2024, it is submitted is not sustainable.

5. At this stage, we take note of decision dated 09.08.2024, passed in CWP-16052-2020. Relevant portion of order dated 09.08.2024 reads as under:-

*“28. Now coming to the argument raised before this Court by the learned counsel for the petitioner(s), that since the impugned amendment was purportedly made in terms of Rule 28 of the 1963 Rules, yet when in terms of Section 85 (3) of the Act of 1961, the said amendment was required to become tabled before the State Legislative Assembly for the latter proceeding to either accord assent thereto or to decline the accordings of assent thereto. However, when the said impugned amendment to Rule 19(A) of the 1997 Rules, did not become placed before the State Legislature, thereby the impugned amendment to the Rule (supra), is ultra vires to the provision embodied in Sub Section (3) of Section 85 of the Act of 1961, and as such it is required to be quashed and set aside.*

*29. For the reasons to be assigned hereinafter, the said argument is merit-worthy and is accepted and the argument to the contra raised by the learned State counsel, thus is not found to be tenable.*

*30. The reason for drawing the above inference, naturally becomes sparked, from the factum that the parent provision is embodied in Section 85 (3) of the Act of 1961 and when in terms of any Rules which become enacted, through the sourcing of the substantive/parent statutory provision (supra), thereby but as a natural corollary thereto, the provisions of Section 85 (3) of the Act of 1961, do emerge in the forefront whereby the said formulated Rules are required to become placed before the State Legislative Assembly, thus*

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*for approvals or declinings thereto becoming made, or the supra was a dire imperative statutory necessity. Resultantly therebys the non compliance thereto may render the enactment of the Rules to be not merit worthy.*

*31. The said statutory necessity was irrespective of the factum that the relevant empowerment under Rule 28 of the 1963 Rules, rather is bestowed upon the Registrar. Conspicuously also for the further trite reason, that the Registrar, is but a functionary of the State Government and/or is the State Government but for all intents and purposes. In sequel, even if Rule 28 of the 1963 Rules, empowers the Registrar and not the State Government, to make the relevant rules, yet as stated (supra), when the Registrar is but for all intents and purposes, rather a functionary of the State Government or is the State Government, therebys the impugned Rule(s) enacted in terms of the substantive/parent statutory provision (supra), thus also required qua validating compliance being made in terms of the ordainment(s) carried in Section 85 (3) of the Act of 1961.*

*32. Be that as it may, since for reason (supra), the making of the said Rules thus has the holistic purpose (supra), and therebys when only for want of compliances being made to Section 85 (3) of the Act of 1961, thus the salutary purpose behind the enactment of the apposite Rule, rather may become ill frustrated, whereas, the said salutary purpose is required to be forwarded.*

*33. Resultantly, the respondent concerned, may consider, if now also possible, thus the placing of the said Rules before the State Legislative Assembly for therebys compliance being made to Section 85 (3) of the Act of 1961, and/or may enact either fresh Rules at par with the Rules under challenge, so that therebys the apposite retrospective approval becomes granted to the relevant Rule.*

*34. The said exercisings be considered to be completed within two months from today. It is also further expected that the cooperative societies concerned may rejuvenate their financial position, so that therebys they are able to mop up funds sufficient for liquidation of the liabilities concerned.*

**Final Order of this Court.**

*35. In aftermath, with the observation(s) and direction(s) aforesaid, the writ petition(s) are disposed of.*

*36. However, for facilitating the above besides for ensuring the effective functioning of the State Agricultural Cooperative Societies, a direction is made upon respondent No. 2 - Registrar Co-operative Societies, Punjab, to purvey*

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*to this Court, all the statistics with respect to the auditings being made of the funds of all the Cooperative Societies which are located in the State of Punjab.*

*37. Further, statistics with respect to the Societies coming under liquidation and with respect to the action takings by the liquidator concerned, be placed on record, through an affidavit becoming sworn by the Secretary, Cooperative Societies, Punjab.*

*38. Moreover, in case within the realm of certain provisions, the societies concerned, if are in any financial stress, thus can be taken over by the Government, if so required in public interest, thereupon the Government may also consider taking over the cooperative societies concerned. The said fact be also stated on the affidavit to be filed on the subsequent date of hearing.”*

6. Perusal of order dated 09.08.2024 in CWP-16052-2020 thus reveals that amendment to the Rule made on 24.09.2020 was declared ultra vires the provisions of Section 85 (3) of the Punjab Cooperative Societies Act. It is observed in para 33 of the said order that it was up to the concerned respondents to consider whether the Rules in question should be placed before the State Legislative Assembly or it would enact fresh Rules at par with the Rules under challenge so that apposite retrospective approval can be granted. Said exercise it was directed, should be completed within next two months.

7. Learned counsel for appellant point out that those persons who had been affected from the impugned amendment and still have some years to serve were required to be permitted to rejoin their duty as per order dated 22.11.2024 by said Division Bench. This order was passed on an application filed on behalf of writ petitioners therein for issuance of appropriate directions to respondents to allow all such employees who were relieved in terms of impugned amendment dated 24.09.2020 but who had not yet crossed the age of superannuation, to rejoin with continuity in service alongwith granting of

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service benefits to them. Relevant part of order dated 22.11.2024 reads as under:-

“4. Though, in terms of the supra extracted paragraphs, this Court has annulled the impugned amendment, as, made to Rule 19 (A) of the Punjab State Cooperative Agricultural Service Societies Service Rules, 1997. The reason as set forth therein for setting aside the impugned amendment (supra) ensued from the factum that despite the necessity of the impugned amendment being placed before the State Legislature, yet with the said statutory necessity remaining uncomplied, therebys, the impugned Rule was declared ultra vires the provisions embodied in Sub Section (3) of Section 85 of the Punjab Cooperative Societies Act, 1961.

5. The apt consequence thereof, was that, those who were sufferers under the impugned amendment or became therebys affected thus were required to be permitted to re-join the service, unless the bill embodying therein the relevant amendment became successfully passed in the State Legislature, and, also subsequently received the assent of the Governor. Since, there is no material on record in respect of the successful passing of the bill, relating to the reduction in the retirement age of the employees of the petitioner(s) society, therebys, the consequence of the setting aside of the impugned Rule, was that, those who became affected from the impugned amendment and who still have some years to serve under the un-amended Rules rather were required to be permitted to rejoin their duty.”

8. Thereafter, said Division Bench on 10.12.2024 while taking note of compliance report which was filed before it, directed the respondents to forthwith reinstate concerned employees of the Societies in question with a clarification that said reinstatement shall abide by the orders as may be passed by Hon’ble the Supreme Court. It was directed as under:-

“4. Since today before this Court, there is no copy of the registered SLP filed by the State of Punjab against the said decision passed by this Court thereupons, till the operation of the said decision is stayed or the said decision is set aside there upto thus the supra passed decision acquires binding and conclusive force, wherebys, it was required to be implemented. As a sequel, the deponent is directed to forthwith reinstate in service the non-applicants, the employees concerned of the Societies concerned. However, it is clarified that the said reinstatement shall abide by the orders as become passed by the Hon’ble Supreme Court.”

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8. Learned counsel for the State as well as Society affirm and verify the position as above. Learned counsel for the State has furnished a copy of communication dated 18.12.2024 from Additional Registrar, Co-operative Societies to all Joint Registrars, Co-operative Societies, to submit that compliance of order dated 10.12.2024 is being ensured.

9. No other argument was addressed.

10. Keeping in view facts and circumstances as above, impugned order dated 30.05.2024 is set aside in view of order dated 09.08.2024 and subsequent orders dated 22.11.2024 and 10.12.2024 in CWP No.16052 of 2020. All the appeals (LPA-3200-2024, LPA-1932-2024, LPA-3039-2024, LPA-3143-2024 and LPA-3250-2024) are accordingly disposed of in view of decision dated 09.08.2024 and specific stand of respondent-State. Needless to say reinstatement of appellants shall be subject to orders as may be passed by Hon'ble the Supreme Court.

10. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

**(LISA GILL)  
JUDGE**

**(SUKHVINDER KAUR)  
JUDGE**

**19.12.2024**  
*Sunil*

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