2025:PHHC:130075

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16045-1999 (O&M)
Reserved on: 11.09.2025
Pronounced on: 22.09.2025

Joginder Singh

....Petitioner

Versus

Registrar, Patiala Cooperative Sugar Mills and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajeev Anand, Advocate
with Mr. Aryan Singh, Advocate
for the petitioner.

Mr. Rahul Aggarwal, Advocate
for Mr. Rahul Sharma-I, Advocate
for the respondents.

HARPREET SINGH BRAR J. (Oral)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India with a prayer for issuance of an appropriate writ or order in the nature of *certiorari* for quashing the impugned termination order dated 20.07.1998 (Annexure P-6). Further, the petitioner prays for a direction to the respondents to reinstate the petitioner into service with all consequential benefits, including back wages, continuity of service, and all other rights and privileges attached to the post.

FACTUAL BACKGROUND

2. Briefly, the facts of the case, as alleged, are that the petitioner was appointed as a Fitter Helper with respondent No. 2, The

Patiala Cooperative Sugar Mills Limited, Rakhra, vide Order No. 7540 dated 14.11.1996 (Annexure P-4). The appointment was made against an advertisement dated 01.11.1996 (Annexure P-2) and was subject to a probation period of one year. Vide Order No. 6209 dated 13.11.1997 (Annexure P-5), the probation period of the petitioner was extended for a further six months. The petitioner contends that this probation period expired on 13.05.1998, and thereafter, he attained the status of a confirmed employee.

3. Subsequently, vide impugned Order No. 2625-33 dated 20.07.1998 (Annexure P-6), the services of the petitioner were terminated. The stated reason in the termination order was that the petitioner had failed to produce his qualification certificates and that his work and conduct was not satisfactory.

CONTENTIONS

4. Learned counsel for the petitioner contended that the impugned termination order dated 20.07.1998 is stigmatic and punitive in nature, yet was passed without adhering to the principles of natural justice, i.e., without issuing any show-cause notice or holding any enquiry. The petitioner's probation period expired on 13.05.1998, and in the absence of any specific extension thereafter, he became a confirmed employee. Consequently, his services could not be terminated under the simplistic terms applicable to a probationer. It was submitted that the alleged ground for termination, i.e., non-production of qualification certificates, is a mere pretext and an afterthought, as no qualifications

were prescribed in the original advertisement (Annexure P-2) and he was never asked to produce any such certificates during his service. The real and *mala fide* reason for termination was extraneous pressure from the Workers' Union, aimed at ousting those employees who were appointed during the Union's strike period. An action based on such ulterior motives is null and void in the eyes of law. It was further argued that the respondent-Mill is a 'State' under Article 12 of the Constitution and is, therefore, obligated to act fairly and reasonably, which it has failed to do.

5. *Per Contra*, learned counsel for the respondents submitted that the petitioner cannot be allowed to invoke the writ jurisdiction of the High Court as the respondent-Mill is a society registered under the Punjab Cooperative Societies Act, 1961 and is neither an instrumentality nor agency of the Government of Punjab. Hence, the Respondent-Mill is not 'State' within the meaning of Article 12 of the Constitution. It was further contended that the petitioner was a probationer at the time of termination, and his services were terminated strictly in accordance with the terms of his appointment and the statutory Rules which empower the Management to terminate a probationer's services without notice. The period of probation was validly extended for six months, and in the absence of a specific order of confirmation, the petitioner continued to be on probation. The maximum probation period under the rules is two years, which had not elapsed. The termination was based on the petitioner's unsatisfactory work and conduct and his persistent failure to

submit his qualification certificates, which was a mandatory requirement for the formal approval of his appointment as per the rules.

OBSERVATION & ANALYSIS

6. I have heard the learned counsel for the parties and gone through the case file with their able assistance.

7. A Two-Judge Bench of the Hon'ble Supreme Court in ***General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur, UP v. Satrughan Nishad and others, (2003) 8 SCC 639*** has categorically held that jurisdiction of the High Court under Article 226 of the Constitution could not be invoked with respect to a Mill that is engaged in the manufacture and sale of sugar as the same does not involve the discharge of any public function or duty. The Apex Court relied on its earlier judgments in ***Ajay Hasia and others v. Khalid Mujib Sehravardi and others, 1981(1) SCC 722***, ***Ramana Dayaram Shetty v. International Airport Authority of India and others, 1979(3) SCC 489*** and ***Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and others, 2002(2) SCT 1067 (SC)*** and observed that:

> *"From the decisions referred to above, it would be clear that the form in which the body is constituted, namely, whether it is a society or co-operative or a company, is not decisive. The real status of the body with respect to the control of Government would have to be looked into. The various tests as indicated above, would have to be applied and considered cumulatively. There can be no hard and fast formula and in different facts/situations, different factors may be found to be overwhelming and indicating that the*

> *body is an authority under Article 12 of the Constitution…"*

8. A coordinate Bench of this Court in ***CWP No. 4662 of 2016*** titled as ***Khushhal Singh v. State of Punjab***, has relied on the judgment of Hon'ble Supreme Court in ***Kisan Sahkari Chini Mills (supra)*** and held as follows:

> "***But this Court would make no comment on the judgment since I am of the considered view that a writ is not maintainable against the Mills and to reach the conclusion the ratio in Kisan Sahkari Chini Mills case is the case in point. The respondent Mills are not involved in performance of public duty. If the rights are purely of a private character no mandamus can issue. The activity should be engaged in obligations akin to public duties or State functions to bring it within the sphere of Article 226 of our Constitution. The body to become amenable to writ should be financially, functionally and administratively dominated by or under the control of the Government***; *see Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and others, (2002) 5 SCC 111. I find none of the essential ingredients present in this case clearly demonstrated. If the writ petition is not maintainable then it has to be dismissed without any further discussion on facts.* ***If the petition has to be dismissed for want of maintainability, then the petitioner may avail his remedy elsewhere when the right to sue subsists but remedy lies in some other forum for judicial control of administrative acts complained of. Therefore, the merits of the case have not been dealt with in this case after coming to the conclusion that the writ must fail on the point of***

> ***maintainability.*** *No material has been placed on the record from where the Court may take a different view applying the recognised tests say in V.R. Rudani (supra) or more* ***expansively in Zee Telefilms Ltd. and another v. Union of India and others, (2005) 4 SCC 649****.*" (emphasis supplied)

9. Reliance can also be placed on the coordinate bench judgments of this Court in ***CWP-17214 of 2020 (O&M)*** titled as ***Ram Niwas v. Haryana State Federation of Cooperative Sugar Mills Limited*** and ***CWP-13579 of 2015*** titled as ***Khajan Singh v. Kaithal Cooperative Sugar Mill Ltd*** wherein this Court has reiterated the view that Sugar Mills engaged in the manufacture and sale of sugar are not engaged in any public function and therefore, are not amenable to writ jurisdiction under Article 226 of the Constitution.

10. In view of the foregoing discussions, the present writ petition is held to be not maintainable and is, accordingly, dismissed on this ground alone. However, the petitioner would be at liberty to avail his remedies before the appropriate forum for the redressal of grievance raised in the present petition. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

22.09.2025
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No