



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(232)

CWP No. 14162 of 2000 (O&M)

Date of Decision : 05.03.2025

Rattan Singh

...Petitioner

Versus

Presiding Officer, Labour Court, Ambala and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Japjit S. Johal, Advocate for the petitioner.

Mr. Yogesh Putney, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the Award passed by the Labour Court, Ambala dated 24.03.2000 (Annexure P-1) by which, the plea raised by the petitioner that his services have wrongly been terminated by respondent No. 2-Society, has been declined.

2. Learned counsel for the petitioner submits that the petitioner was appointed as a Clerk with the respondent No. 2-Society and once, allegations were being alleged against the petitioner, it was incumbent upon the Society to hold a disciplinary proceedings before terminating the services of the petitioner, which crucial aspect has been ignored by the Labour Court while passing the impugned order.

3. Learned counsel for the petitioner further submits that there is no absolute bar qua Rule 112 of Haryana Cooperative Societies Rules, 1989 (hereinafter referred to as '1989 Rules') so as to take the previous sanction



of the Registrar when the relative of any Member of the Committee or any Officer working in the Society to be appointed, hence, the said Rule is not to be considered mandatory but directory in nature.

4. Upon notice of motion, the respondents have appeared and have stated that the appointment of the petitioner was void ab initio keeping in view the 1989 Rules, according to which, in case any appointment is to be made in the Society where, any relative of any Member of the Committee or of any other Officer of the Co-operative Society is to be appointed, the previous sanction of the Registrar is to be taken, whereas in the present case as, the father of the petitioner was working in the Co-operative Society but no such previous sanction was taken from the Registrar, therefore, the appointment of the petitioner as a Clerk with the Co-operative Society-respondent No. 2 was void ab initio and any appointment which is void ab initio, the benefit of the same cannot be granted so as to claim reinstatement.

5. Learned counsel for respondent No. 2 further submits that the impugned Award passed by the Labour Court in the facts and circumstances of the present case is valid, hence, the writ petition filed by the petitioner may kindly be dismissed.

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

7. The first question which needs to be answered is whether, the petitioner whose appointment as a Clerk with Society has been found to be void ab initio by Labour Court while keeping in view 1989 Rules, can seek the benefit of reinstatement or not. It is a settled principle of law that the relief of the reinstatement can only be claimed in case, the appointment is



valid. In the present case, the father of the petitioner was working with the respondent-Society, which fact has gone un-rebutted. Fact that father of petitioner played dubious role in appointment of the petitioner has also come on record. That being so, Rule 112 of 1989 Rules, according to which, the prior approval of the Registrar is required to be taken before giving an appointment in cases like the present required approval was never taken before appointing the petitioner as a Clerk. That being so, the appointment of the petitioner was de hors 1989 Rules and thus, cannot be treated as a valid appointment.

8. The argument of the learned counsel for the petitioner is that Rule 112 of 1989 Rules is not mandatory but directory in nature. The Rule 112 of 1989 Rules is as under :-

“Save in a producer society, no relative of any member of the committee or of any other officer of a co-operative Society shall be appointed to any office in the co-operative except with the previous sanction of the Registrar.”

9. A bare perusal of the above reproduction would show that the word ‘shall’ has been used in the said Rule and not ‘may’. Word ‘shall’ indicates that the same has to be complied with strictly and there is no discretion with the Society so as to ignore the said Rule so as to be treated as a directory rule instead of mandatory rule. Hence, as per the Rule 112 of 1989 Rules, the respondent-Society was under obligation to take the prior approval of the Registrar before appointing the petitioner as Clerk, which concededly was not taken, which fact has rightly been considered by the Tribunal while passing the impugned Award so as to hold that the



appointment of the petitioner was void ab initio so as to grant him any relief in pursuance to the order terminating his services.

10. The argument that no enquiry was held by respondent No. 2-Society before terminating the services of the petitioner as certain allegations were raised, it may be noticed that once the appointment of the petitioner was held to be void ab initio, the said void appointment cannot give any right to the petitioner to claim any benefit or raise any such grievance on the basis of such appointment. The claim that he should be allowed to continue in service will amount to granting the benefit emerging out of a void appointment, which cannot be extended and has rightly been considered in the correct perspective by the Labour Court while declining the relief to the petitioner.

11. No perversity exists in the Award so as to need any interference by this Court.

12. Dismissed.

13. Pending miscellaneous application, if any, also stands disposed of.

March 05, 2025
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No