



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

107+201

Decided on :04.04.2025

CM-4415-CWP-2025 in/and
CWP-1782-2015 (O&M)

AYUDHIA PRASHAD SHARMA . .Petitioner
Versus

THE MILKFED PUNJAB THROUGH ITS MANAGING DIRECTOR &
ANR
. . . Respondents

CWP-25221-2018 (O&M)

AYUDHIA PRASHAD SHARMA . .Petitioner
Versus

STATE OF PUNJAB AND OTHERS
. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Sandeep Bansal, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Rahul Sharma, Advocate
for respondent No. 1 in CWP-25221-2018.

Mr. B.S.Patwalia, Advocate
for respondent No. 1 in CWP-1782-2015 and
for respondent No. 2 in CWP-25221-2018.

Mr. Ashwani Prashar, Advocate
for respondent No. 2.

HARSIMRAN SINGH SETHI , J. (Oral)

CM-4415-CWP-2025

The prayer in the present application filed by the petitioner is for
placing on record the written statement on behalf of respondent No. 1.

Keeping in view the averments mentioned in the application, the
same is allowed. Copy of written statement on behalf of respondent No. 1 is



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taken on record subject to all just exceptions.

CWP-1782-2015

1. In the present petition, the grievance being raised by the petitioner is that he was working as an Accountant with respondent No. 4-Milk Plant, Hoshiarpur and was entitled for the further promotion to the post of Deputy Manager Accounts but, as there is no post of Deputy Manager Accounts in the milk plant wherein petitioner is working, the petitioner has not been promoted to the said post.

2. Learned counsel for the petitioner submits that as there is a post of Manager Accounts is vacant with the respondent No. 4-Milk Plant, Hoshiarpur but nobody is eligible within the milk plant to be appointed to the said post and said post is lying vacant, the respondents should have considered and converted the vacant post of Manager Accounts to that of Deputy Manager Accounts so that the petitioner could get the promotion during his service career.

3. Upon notice of motion, the respondents have stated certain circumstances under which the post of Deputy Manager Accounts can be created in particular milk plants. As per the respondents, the milk plant where the petitioner was working was not of such capacity so as to create a post of Deputy Manager Accounts.

4. Learned counsel for the petitioner further submits that in case, there is a post of Manager Accounts, which is lying vacant with respondent No. 4, and the same can be converted to Deputy Manager Accounts and no financial distress will be caused to the respondent No. 4-milk plant by creating the said post and the petitioner who had worked wholeheartedly during his whole career with the respondent No. 4, will get further



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promotion.

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

6. Though, it is a conceded proposition of law that the creation and conversion of a post is within the domain of the employer and it is upon the employer to decide as to whether a particular post needs to be created or converted or not and the Courts cannot intervene in this aspect unless and until, the said action of conversion of a post taken is mala fide or causes undue hardship to an employee concerned.

7. Still, once, a post of Manager Accounts was available with respondent No. 4-milk plant where the petitioner was working which post is lying vacant and the conversion of the same to post of Deputy Manager Account is being claimed by petitioner, the respondents should have taken an appropriate decision keeping in view the fact that the certain recommendations have been made to the competent authority in this regard.

8. The totality of circumstances demands that the issue raised or any recommendation by the competent authority should be finalized either way by passing an appropriate speaking order.

9. The present petition is disposed of with the direction to respondent No. 3- Registrar-Cooperative Societies, Punjab to look into the aspect as to whether the post of Manager Accounts, could be converted into that of the post of Deputy Manager Accounts so as to grant the promotional avenue to the eligible Accountants who are working with the respondent No. 4-Milk Plant, Hoshiarpur.

10. Let the said consideration be finalized by respondent No. 3- Registrar-Cooperative Societies, Punjab, by passing of an appropriate



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speaking order within the period of 8 weeks of the receipt of certified copy of this order and in case, thereafter, the petitioner is found entitled for any relief, the same will be extended to him forthwith.

11 With regard to writ petition bearing no. **CWP-25221-2018**, where the certain benefits admissible to the petitioner have been withheld by the respondents due to pendency of disciplinary proceedings against him.

12. Learned counsel for the petitioner in this regard submits that though the disciplinary proceedings initiated against him have been finalized but punishment has been imposed upon the petitioner which order of punishment is impugned in the connected writ petition i.e. CWP-21454-2023, which is pending before this Court to be heard on 14.07.2025, hence, the present petition may kindly be disposed of having been not pressed with liberty to petitioner that in case, the petition succeeds in the said writ petition i.e. CWP-21454-2023, the petitioner can claim the interest on delayed release of the pensionary benefits.

13. Ordered accordingly.

14. The present petition are disposed of in above terms.

15. Civil miscellaneous application pending if any, also stands disposed of.

16. A photocopy of this order be placed on the file of connected case.

(HARSIMRAN SINGH SETHI)
JUDGE

04.04.2025

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Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*