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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19766-2018 (O&M)

Date of Decision : 24-01-2025

DHARAMBIR

.....Petitioner

VERSUS

PRESIDING OFFICER INDUSTRIAL TRIBUNAL CUM LABOUR
COURT ROHTAK AND ORS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Singal, Advocate for the petitioner.

None for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner qua the award dated 22.05.2018, copy of which has been appended as Annexure P-9 by which, the challenge to the alleged termination of the services of the petitioner have not been accepted.

2. Learned counsel for the petitioner further submits that the petitioner was appointed on the post of the Recovery Helper (Salesman) by the Cooperative Society vide resolution dated 04.03.2009 (Annexure P-1).

3. Learned counsel for the petitioner further submits that the said resolution was set aside vide order dated 25.06.2010 (Annexure P-3) on the ground that the same was in violation of the Primary Cooperative Credit and Service Societies Staff Service Rules, 1992 especially when no post of

Recovery Helper (Salesman) exists in the said society. He cannot be directed to be reinstated on a post which is non-existent.

4. The said termination of the services was challenged by the petitioner before the Industrial Tribunal-cum-Labour Court and the Labour Court has come to the conclusion award dated 25.06.2010 that the petitioner was appointed on a non-existing post by the Society and once the post does not exist as per the Service Rules, the claim of the petitioner that the termination was bad cannot be accepted so as to grant him the benefit of reinstatement in the services.

5. Learned counsel for the petitioner argues that once, the petitioner has worked for more than 240 days, the petitioner is entitled for the grant of benefit of Section 25F of the 1947 Act once his services have been terminated. Hence, the violation of Section 25F of the 1947 Act should have been considered in light of the discharge of the duties by the petitioner so as to grant him the relief.

6. I have heard learned counsel for the petitioner and have gone through the record of the present case with his able assistance.

7. Keeping in view the fact that there was no post of Recovery Helper (Salesman) exists in the said society appointing the petitioner on the said non-existing post was in fact void and could not have been done. Nothing brought on record that on which post the petitioner has worked for 240 days as on the post on which he was appointed is concededly non-existent. Once, the learned counsel for the petitioner has not been able to point out that the petitioner was working on an existing post as Recovery Helper (Salesman), no benefit of Section 25F of 1947 Act can be extended to him.

8. In the absence of any such post in existence so as to appoint the petitioners merely that the resolution of the society was set aside by the competent authority after a period of 9 months, does not mean that the petitioner actually discharged the duties of a post, which is non-existent. Keeping in view the fact that the post against which the petitioner was appointed, did not exist as per the Rules of Service, the claim of the petitioner that the petitioner was discharging the duties of a non-existent post so as to claim the benefit of Section 25F of the 1947 Act, cannot be accepted.

8. The Section 25F of the 1947 Act can only be applied where there is a valid appointment and the discharge of the duties has been done against an existing post.

9. Keeping in view the fact that as the petitioner never joined against an existing post under the Rules and his appointment was also *void ab initio* as the post against which he was appointed, did not exist, no ground is made out for interference by this Court in the facts and circumstances of the present case.

10. Present petition is dismissed.

11. Pending application, if any, also stands disposed of.

24-01-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO