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

**CWP-22301-2020
Date of Decision: 15.09.2025**

The Palli Jhikki Multipurpose Cooperative Agricultural Service Society Ltd.
.... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Iqbal Singh Saggu, Advocate
for the petitioner.

Mr. Gurpartap Singh Bhullar, AAG, Punjab.

Mr. Vivek Aggarwal, Advocae,
for respondent No.6.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of *certiorari* for quashing of the impugned order dated 07.12.2018 (Annexure P/18) passed by the Deputy Registrar-respondent No.4 and order dated 17.08.2020 (Annexure P/19) passed by the Joint Registrar-respondent No.3.

2. Mr. Iqbal Singh Saggu, learned counsel for the petitioner submitted that in the present case, respondent No.6 was an employee of the petitioner-Cooperative Society and was working as Peon-cum-Chowkidar in the Cooperative Society. The complaints were received against him with regard to his association with a political party and also with regard to insubordination etc. and in this regard vide a letter dated 15.02.2017 (Annexure P-1), it was so stated therein that after taking disciplinary action

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against this employee on this charge, the report be sent to the office. He further submitted that before the learned Assistant Registrar, Cooperative Societies, Nawanshahr, respondent No.6 also stated vide Annexure P-1/A that he used to go for election campaign with Aam Aadmi Party and that he is a District President of the Aam Aadmi Party and he had campaigned during election and will also campaign in future. In this regard, he rather submitted an affidavit dated 25.11.2014 (Annexure P/17) which was duly executed before the Executive Magistrate. Thereafter, a charge-sheet dated 01.03.2017 was issued to respondent No.6 vide Annexure P/3 on the basis of the aforesaid allegations made against him that he has campaigned for a political party and that he also stated that he will do the same in future as well and that he is District President of that party. There were other charges against respondent No.6 pertaining to his absence from duty for some period of time and reference of the aforesaid affidavit was also mentioned in the aforesaid charge-sheet. Another allegation was made with regard to use of vulgar language, attending duty in drunken condition, not performing duty with responsibility and theft of diesel from the tractor etc. On the basis of the aforesaid charge-sheet dated 01.03.2017 (Annexure P/3), a Resolution was passed by the Managing Committee and a request was made vide Annexure P/4 to the Assistant Registrar for further necessary action to be taken and vide Annexure P/5, another letter was written to the Assistant Registrar, Cooperative Societies by the President of the petitioner-Cooperative Society to give guidelines to decide the case of respondent No.6 at the earliest. Thereafter, as per Annexure P/6, a letter was written by the Assistant Registrar, Cooperative Societies, Nawanshahr to the petitioner-Cooperative Society that the action may be taken against the employee as per the rules.

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3. Thereafter respondent No.6 submitted his reply to the aforesaid charge-sheet dated 01.03.2017 vide Annexure P/7 on 20.04.2017 in which he denied the submission of the affidavit and also so stated that he has neither ever stolen diesel from the tractor nor has he misused the telephone nor did he ever remained absent from the duty on the dates so mentioned in the charge-sheet. He also so stated in the reply that he is neither a political person nor he is a member of Aam Aadmi Party nor of any other political party. In this way, he denied all the allegations made in the charge-sheet. Thereafter, vide Annexure P/8, a Resolution was passed by the Petitioner-Cooperative Society that the reply submitted by respondent No.6 was not based upon the facts and was not satisfactory and therefore, an Enquiry Officer as well as a Presenting Officer was appointed in this regard. Thereafter, vide Annexure P/9 a notice dated 20.05.2017 was issued to respondent No.6 for taking further action in pursuance of the aforesaid Resolution and he was directed to come present in person before the Enquiry Officer. Vide Annexure P-10, respondent No.6 so wrote a letter to the President of the Palli Jhikki Multipurpose Cooperative Agricultural Society Ltd. (Petitioner) tendering an apology for all the bad words spoken by him. Respondent No.6 also so stated in the letter that due to mental stress he had spoken bad words against somebody for that he apologies and so far as the absent from duty is concerned, it was due to marriage of daughter of Gian Singh for which he was not present from 1st to 3rd February, 2017. Since respondent No.6 was under suspension, he also requested for reinstatement as such.

4. Thereafter, the Enquiry Officer vide Annexure P-11 submitted the Enquiry Report in which he has so stated that when an enquiry was

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earlier conducted by the Assistant Registrar, Cooperative Societies, then respondent No.6 had admitted the allegations made against him by way of an affidavit submitted by him vide Annexure P-1/A that he campaigned for a political party and in future also he will do the same and he had also admitted that he was District President of that party. Respondent No.6 was also found to be absent from duty from 1st to 3rd February, 2017 without any application or approval that too on the election days. Respondent No.6 had also given an affidavit duly attested before the Executive Magistrate and had admitted that he had stolen diesel from the tractor of the Society and various other allegations were also admitted by him. In this way, the Enquiry Officer vide Annexure P-11 recommended that it was not in the interest of the Society to reinstate respondent No.6. Thereafter, vide Annexure P-13 a show-cause notice was issued to respondent No.6 to which he did not reply and thereafter, a punishment order was passed vide Annexure P-14 by the petitioner-Cooperative Society by which respondent No.6 was dismissed from service. Respondent No.6 thereafter filed an appeal before the learned Deputy Registrar, Cooperative Societies, Shaheed Bhagat Singh Nagar which was decided vide Annexure P-18 and by way of the aforesaid order, learned Deputy Registrar, Cooperative Societies converted the aforesaid punishment of dismissal into stoppage of three annual increments with cumulative effect under Rule 14.1 of the Primary Cooperative Agricultural Service Society Service Rules, 1997 and also directed that the period from the date of termination of service till his joining after reinstatement will be treated as *dies non* and he will not be paid any salary of this period.

5. Thereafter, the petitioner-Cooperative Society as well as respondent No.6 filed two separate revision petitions against the order

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passed by the learned Deputy Registrar, Cooperative Societies which was decided vide Annexure P/19 in which the revision petition filed by the petitioner-Cooperative Society was dismissed and so far as the revision petition filed by respondent No.6 is concerned, the order of punishment was again modified to the extent of stoppage of two annual increments without cumulative effect under Rule 14(1)(i)(a) of the Punjab State Cooperative Agricultural Service Societies Rules, 1997 and it was also ordered to grant all other financial benefits to respondent No.6. It was also observed that there is no provision for re-enquiry.

6. Learned counsel for the petitioner further submitted that both the learned Deputy Registrar, Cooperative Societies as well as the Revisional Authority, who was the Joint Registrar, Cooperative Societies, have erred in law by modifying the orders passed by the Petitioner-Cooperative Society in view of the fact that when the Assistant Registrar, Cooperative Societies had received complaints *qua* respondent No.6 and respondent No.6 has rather not only given a statement to the learned Assistant Registrar, Cooperative Societies, which was attached as Annexure P-1/A but apart from that he rather furnished an affidavit dated 25.11.2014 (Annexure P/17) in which he admitted his aforesaid conduct pertaining to being affiliated with the Aam Aadmi Party and various other allegations pertaining to theft etc. and when charge-sheet was issued to him, the Enquiry Officer had inflicted punishment on the basis of the aforesaid enquiry being conducted by the Assistant Registrar and once the guilt itself was admitted by respondent No.6, there was no need of further enquiring the matter and therefore, on the basis of the aforesaid admission of his misconduct, which was sufficient for inflicting a major punishment of dismissal of service upon

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respondent No.6, no error can be found on the Resolution passed by the Society and hence the petitioner-Cooperative Society had rightly dismissed respondent No.6 from service. He also submitted that the observations which were made by learned Revisional Authority, who is the Joint Registrar, Cooperative Societies that no enquiry was conducted is also against the record whereas after the charge-sheet was issued, rather an Enquiry Officer was appointed and even a Presenting Officer was also appointed and since respondent No.6 had admitted his guilt as aforesaid, the punishment of dismissal was commensurate on the basis of the allegations made against him, which were serious in nature. He submitted that in view of aforesaid facts and circumstances, both the impugned orders passed by the learned Deputy Registrar, Cooperative Societies in the appellate jurisdiction and by the learned Joint Registrar, Cooperative Societies in the revisional jurisdiction may be set aside.

7. On the other hand, Mr. Vivek Aggarwal, learned counsel appearing on behalf of respondent No.6 submitted that it is a case where the Resolution which was passed by the Petitioner-Cooperative Society vide which respondent No.6 was dismissed from service is totally erroneous and against the law. He further submitted that in fact no enquiry has been conducted in the present case and a major punishment has been inflicted upon respondent No.6 vide Annexure P/15 by which he was dismissed from service. In this regard, while referring to the Enquiry Report (Annexure P-11), he submitted that a perusal of aforesaid report would show that the Enquiry Report is only based upon the statement made by respondent No.6 to the Assistant Registrar by way of an affidavit and the said affidavit so stated to be executed by him before the Executing Magistrate, which is of

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the year 2014 i.e. dated 25.11.2014 and the same was given under coercion and duress. He further submitted that it was after about two years and four months, vide Annexure P/3, a charge-sheet dated 01.03.2017 was issued to respondent No.6 wherein he was asked to give a reply to the same and vide Annexure P/7, respondent No.6 replied to the memo of charge-sheet in which he specifically denied all the allegations including the execution of affidavit etc. and once he had denied all the allegations, it was incumbent upon the petitioner-Cooperative Society to have conducted a detailed enquiry with regard to the same whereas the procedure so adopted by the petitioner-Cooperative Society was that after issuance of charge-sheet and appointment of the Enquiry Officer and the Presenting Officer and after taking reply from respondent No.6, straightaway the punishment of dismissal has been inflicted upon him. Neither any witness has been examined nor any document was produced and this becomes clear from the report of the Enquiry Officer, which is at Annexure P-11, where the only reference is made to an enquiry, which is more than two years old, conducted by the Assistant Registrar, Cooperative Societies and the reference of the aforesaid affidavit submitted by respondent No.6 was given, which could not have become a basis for dismissing him from service because once in the reply to the charge-sheet, he has specifically denied all the allegations and for that a detailed enquiry ought to have been conducted and in this way, there has been a flagrant violation of *principles of natural justice* and also the Statutory Rules, which govern the same.

8. Learned counsel for respondent No.6 further submitted that not only this, when this Court vide order dated 15.10.2024 had directed the learned counsel for the petitioner to produce the original record of the

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enquiry proceedings, the same has not been produced by him. Even today, learned counsel for the petitioner has not produced the record and from the record it could have been seen that what was the procedure adopted in the enquiry. He submitted that in the absence of record being produced by the petitioner-Cooperative Society, an adverse inference should be drawn against the petitioner. He further submitted that once a major punishment has been inflicted upon respondent No.6, then non-conducting of a detailed enquiry by the petitioner-Cooperative Society amounts to violation of *principles of natural justice* and also violation of Statutory Rules and therefore, on this ground itself, the entire enquiry and the punishment order are not sustainable although respondent No.6 has not filed any such separate petition for challenging the same and since respondent No.6 has already retired from service, he has not chosen to challenge the orders passed by the learned Deputy Registrar, Cooperative Societies and the learned Joint Registrar, Cooperative Societies whereby the punishment orders were modified and submitted that the entire enquiry itself was a nullity and *non est* in the eyes of law. He also submitted that after the aforesaid modified orders were passed by the Deputy Registrar, Cooperative Societies and the Joint Registrar, Cooperative Societies, respondent No.6 was deemed to have been reinstated and then retired, but no retiral benefits have been given to him in view of the interim order dated 22.12.2020 passed by this Court.

9. Learned counsel for respondent No.6 also submitted that not only was there a violation of the principle of *audi alteram partem* but also there was a violation of the principle of *nemo judex in causa sua* and it was hit by the doctrine of bias as well. To substantiate his arguments, he referred to the Resolution passed by the Petitioner-Cooperative Society vide

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Annexure P/2, which was the initial Resolution passed by the Society whereby the complaint against respondent No.6 was processed and this was signed by the President of the Society, namely, Satvir Singh, Jr. Vice President, namely, Jarnail Singh and three more Committee members including one Amrik Singh. Thereafter, vide Annexure P/3, a Charge-sheet dated 01.03.2017 was issued by the aforesaid members of the Management Committee which included Jarnail Singh and Amrik Singh as well. Thereafter, again a Resolution vide Annexure P/4 was passed and again it was signed by the aforesaid members of the Management Committee including Jarnail Singh and Amrik Singh. Thereafter, vide Annexure P/8, a Resolution was again passed in which it was so decided that Jarnail Singh be appointed as an Enquiry Officer and Amrik Singh as a Presenting Officer and thereafter, the aforesaid Enquiry Officer had given the Enquiry Report vide Annexure P/11. He submitted that the entire exercise was done right from the beginning by the same officers till the time of completion of the enquiry and submitted that the complainant, Presenting Officer and the Enquiry Officer vested in the same Authority and thereafter, the order of punishment was passed vide Annexure P-14 which was again by way of a Resolution passed by the same members of the Management Committee and in this way, right from the time complaint was made, till the passing of the punishment order, the authority vested with the same persons i.e. Jarnail Singh and Amrik Singh. He further submitted that although the Committee is the competent authority to pass an order of punishment but once a member of a Committee himself was the complainant, Presenting Officer and also the Enquiry Officer, the same authority could not have passed any further order of punishment and therefore, the action of the petitioner-Society was hit by

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the doctrine of bias because no person can be a Judge in his own cause and on this ground also, rather the entire enquiry proceedings and the punishment order get vitiated although respondent No.6 has not challenged the orders passed by the Deputy Registrar, Cooperative Societies and the Joint Registrar, Cooperative Societies by which the order of punishment was modified, because of the fact that he has already retired on 31.01.2019.

10. Learned counsel for respondent No.6 further submitted that once respondent No.6 has retired, he is entitled to all the retiral benefits in this regard and therefore, prayed for dismissal of the present petition.

11. I have heard the learned counsels for the parties.

12. Some of the facts of the present case are not in dispute. Respondent No.6 was an employee of petitioner-Cooperative Society and was dismissed from service vide Annexure P/15. The allegations against respondent No.6 started in the year 2014 when there were allegations against him pertaining to being affiliated with some political party and on 25.11.2014, he furnished an affidavit vide Annexure P/17, which was duly sworn before the Executive Magistrate with regard to his admission of allegations against him pertaining to not only affiliation with the political party but also pertaining to other allegations including theft etc. This affidavit is stated to have been given to the Assistant Registrar, Cooperative Societies. The petitioner is an independent Cooperative Society registered under the Cooperative Societies Act. Respondent No.6 also allegedly gave a statement before the Assistant Registrar vide Annexure P-1/A with regard to admission of his guilt pertaining to his affiliation with the political party. After the expiry of about 2 years and 4 months of the aforesaid affidavit (Annexure P-17), an action was proposed to be initiated against respondent



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No.6. In this regard, a charge-sheet was issued to him on the basis of the aforesaid allegations. After the charge-sheet was issued to respondent No.6, he filed reply to the same and that reply has been annexed with present petition as Annexure P/7, which is reproduced as under:-

“Annexure P-7

To

*The Executive Committee,
The Palli Jhikki Agriculture Service Society, Palli Jhikki.*

Sub:- Reply to the Memo dated 01-03-2017.

Sir,

The undersigned is in receipt of your Memo Dated 01-03-2017 and submit my reply to the same as under:-

- 1. That Para No. 01 of the Memo is wrong and incorrect. The under signed is not a political person and neither the undersigned is a member of AAP Party or nor off some other Political party. The undersigned has not made any alleged statement, alleged to be admitted by the undersigned, regarding the alleged member of the AAP Party. The undersigned is confined to his duty as Chokidar, of the society, which the undersigned is performing for the last more than 35 years, with Honesty.*
- 2. That Para No. 02 of the Memo is wrong and incorrect. The undersigned never remained absent from the duty on 01-02-2017, 02-02-2017 and 03-02-2017, but remained present throughout the day, in the society. The allegation is totally false.*
- 3. That Pata No. 03 of the Memo is wrong and incorrect. The undersigned has never submitted an affidavit, as alleged. Neither the undersigned has ever stolen the diesel from the Tractor nor has the undersigned misused the telephone, as alleged. The*



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undersigned is not addicted to Liquor, as the undersigned is a Guru Sikh and the allegation is a false one. The undersigned has not made any rumor as alleged. All the allegations, leveled in this para are wrong and incorrect and has been leveled against the undersigned, in order to terminate the services so that the other person near to the president of the society, may be accommodated, in that post. No alleged inquiry either by the committee or Registrar Co-Op Society was launched ever lodged, regarding the alleged allegations.

So in the aforesaid circumstances, it is submitted that the aforesaid Memo may be withdrawn, on the basis of the said reply and the orders of the suspension, may be recalled, back, in the interest of justice.

Dated:-20-04-2017.

Sd/-

*Balbir Singh S/o Bakhtawar
R/o Village Palli Khiki, Teh.
NawanShahr, Distt. SBS Nagar.*

13. A perusal of the aforesaid reply (Annexure P/7) would show that respondent No.6 denied all the allegations against him. Thereafter, the petitioner-Society vide Annexure P/8 found that the reply was not satisfactory and appointed an Enquiry Officer and also a Presenting Officer. Thereafter, the Enquiry Officer gave a finding vide Annexure P/11 that as per the charges which was levelled against respondent No.6 that he had campaigned for political party, the enquiry was conducted by the Assistant Registrar on 15.02.2017 in which respondent No.6 had admitted in his statement in writing that he has in fact campaigned for a political party openly and he will continue to campaign in future as well and thereafter also, on the basis of his absence from duty for three days and other



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allegations pertaining to theft of diesel from the tractor etc. it was recommended that the allegations were proved against him. The relevant portion of the aforesaid Enquiry Report (Annexure P/11) is reproduced as under:-

“The written reply as well as the oral submission of the employee is not satisfactory. As per the Charge Sheet the charges leveled against him that as per the complaint filed in the office Election Officer, Shaheed Bhagat Singh Nagar that the employee has campaigned for a political party. The inquiry into the same was conducted by the Assistant Registrar, Cooperative Societies, Nawanshahr himself on 15.02.2017 in which this employee has admitted in his statement in writing that he has campaigned for a political party openly and he will campaign in future also. He has also admitted that he is district president of the Party of the party.

On the perusal of attendance register, it has been found that during Assembly election-2017, he remained absent from duty on 01, 02 and 03 February, 2017 without any application or approval. He also remained absent from duty on different dates. The abovesaid employees has also given an affidavit duly attested by the Executive Magistrate, SBS Nagar in which he has admitted that:-

Regarding Pilfering of diesel from the Tractor of the society, misuse of telephone of the society, to attend duty in drunken condition, calling a woman from the telephone of the society and using vulgar language, absent from duty, not performing his duty with responsibility, giving threats of committing suicide if asked to do work, to spread rumors regarding the embezzlement by the committee members, to instigate the members of the society to withdraw their deposits and regarding pilferage of Kerosene oil and mentioned regarding his various mistakes committed by him

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on various occasion and he admitted the charges himself.

Therefore, in view of the serious charges proved against him, it is not in the interest of the society to reinstate this employee. Therefore, I, Jarnail Singh (Enquiry Officer) after considering the case thoroughly on every aspect recommend to take next action against the employee. The written reply of the employee is annexed with the report in original.”

14. A bare perusal of the aforesaid would show that the Enquiry Officer based his findings on some affidavit being given by respondent No.6 before the Assistant Registrar, Cooperative Societies, however, the Assistant Registrar, Cooperative Societies was never an Enquiry Officer. It was one affidavit which was purported to have been given by respondent No.6 on 25.11.2014, which was more than two years and four months prior to the initiation of disciplinary proceedings against respondent No.6. From the aforesaid enquiry report, it is also so stated that on 15.02.2017, he admitted before the Assistant Registrar, whereas the Assistant Registrar, Cooperative Societies was never an Enquiry Officer. Nothing has been brought on record to show that the Enquiry Officer has conducted any further enquiry after the issuance of the charge-sheet for examination or cross-examination of the witnesses or for production of any documents. Although time was given to respondent No.6 to give his defence but there is nothing on record to show that the Presenting Officer was able to prove on record that respondent No.6 was guilty of any misconduct. It appears that straightaway after issuing the charge-sheet and receiving the reply filed by respondent No.6 to the charge-sheet, wherein he has denied all the allegations, the aforesaid Enquiry Officer concluded the enquiry and recommended to the competent authority which was the Cooperative Society. Apart from the above, not only this

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when vide order dated 15.10.2024 passed by this Court, the original record of the enquiry proceedings was requisitioned from the Petitioner-Society, the same has not been produced by learned counsel for the petitioner. However, during the course of arguments, learned counsel for the petitioner has stated that the original record is not available as the Secretary of the Society with whom the record was available, has already retired. The purpose of calling of the original record was to see as to what was the procedure adopted by the Enquiry Officer. In the absence of the record being produced, this Court would therefore draw an adverse inference against the petitioner-Society. A major punishment of dismissal from service was inflicted upon respondent No.6, the same could not have been done without conducting an enquiry. It is a settled law that a major punishment cannot be inflicted unless a complete departmental enquiry is conducted and it is not only in violation of *principles of natural justice* but it is also violative of the statutory rules.

15. The Enquiry Officer purely relied upon some admissions made by respondent No.6. However, a perusal of the reply filed by respondent No.6, which he has filed to the charge-sheet, would show that each and every allegations were specifically denied by him. Once respondent No.6 specifically denied all the allegations levelled against him, then where was the occasion for the Enquiry Officer to have recommended his dismissal from service which is a major punishment on the basis of admission by way of an affidavit. The approach of Enquiry Officer was totally unknown to service *jurisprudence* and it was totally erroneous in nature.

16. Not only this, in the present case two persons, namely, Jarnail Singh, who was appointed as an Enquiry Officer and Amrik Singh who was appointed as Presenting Officer, both of them have been associated with the

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case right from the beginning, which is clear from all the annexures tagged with the present petition. At the initial stage of filing of the complaint, many Resolutions being passed by the Society at all the stages and the punishment orders being passed by the Society, both the officers were signatory to the Resolutions. In this way, the complainant, Enquiry Officer, Presenting Officer and the punishing authority, orders were passed although by the Society but with the signatures and participation of the aforesaid two officers which is therefore hit by the doctrine of bias and was in violation of principle of *nemo judex in causa sua*. No person can be permitted to be a Judge in his own cause and therefore, on this ground as well the order of punishment was bad in law. It is a different matter that respondent No.6 has now not challenged the modified orders, which were passed by the Deputy Registrar, Cooperative Societies and the Joint Registrar, Cooperative Societies in their appellant and revisional jurisdiction.

17. Furthermore, from a perusal of the order passed by the revisional authority i.e. the Joint Registrar, Cooperative Societies wherein there is a specific recording of finding of fact that no enquiry has been conducted, it appears that the learned Joint Registrar must have perused the record which might have been available at that point of time and therefore, the Deputy Registrar, Cooperative Societies had initially modified the order of punishment of dismissal from service to stoppage of three increments with cumulative effect and the period from the date of termination of service till his joining after reinstatement was treated as *dies non*. When a revision petition was filed by respondent No.6, the order of Appellate Authority was again modified to the extent that the punishment would be stoppage of two increments without cumulative effect and therefore, in nutshell the major

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punishment of dismissal from service was converted and modified into stoppage of two increments without cumulative effect which was a minor punishment.

18. Considering the aforesaid facts and circumstances, this Court is therefore of the view that there is no illegality or perversity found in the order passed by the revisional authority i.e. the Joint Registrar, Cooperative Societies. Consequently, finding no merit in the present petition, the same is hereby dismissed. The interim order dated 22.12.2020 passed by this Court is hereby vacated.

19. It was pointed out by respondent No.6 that no retiral benefits have been released to respondent No.6.

20. Respondent No.6 will therefore be at liberty to move any appropriate representation to the Petitioner-Cooperative Society for release of the retiral benefits.

21. In case, any such representation is filed by respondent No.6 to the Petitioner-Cooperative Society, the same shall be considered and decided within a period of one month by passing a speaking order.

15.09.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |