

CWP-16279-2001

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

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CWP-16279-2001
Date of decision:25.03.2026

Harjit Singh

.....Petitioner

VERSUS

The Additional Secretary Cooperative (Appeals Cooperation Department
and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. R.K. Sharma, Advocate for the petitioner.

Mr. Vikas Sonak, AAG Punjab-State.

HARPREET SINGH BRAR, J. (Oral)

1. The present petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned resolution dated 14.09.1998 (Annexure P-1) passed by respondent No.4 terminating the services of petitioner, order dated 26.04.1999 (Annexure P-3) passed by respondent No.3 and the order dated 22.03.2000 (Annexure P-4) passed by respondent No.2 and also the order dated 17.07.2001 (Annexure P-5) passed by respondent No.1.

2. Learned counsel for the petitioner, *inter alia*, submits that the petitioner joined respondent No.4-Cooperative Society as a Salesman on

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16.12.1992. On 11.07.1998, the petitioner was placed under suspension by the President of respondent No.4–Society. Thereafter, a charge-sheet was issued to the petitioner, to which he submitted a detailed reply, categorically denying the allegations and explaining his position. Subsequently, vide resolution dated 14.09.1998 (Annexure P-1), the services of the petitioner were dispensed with. Aggrieved thereby, the petitioner preferred an appeal dated 12.10.1998 (Annexure P-2) before respondent No.2, which came to be dismissed vide order dated 26.04.1999 (Annexure P-3). Thereafter, the petitioner filed a revision petition before respondent No.2 under Rule 15(2) of the applicable Service Rules. However, the said revision petition was also dismissed vide order dated 22.03.2000 (Annexure P-4). Still aggrieved, the petitioner challenged the aforesaid orders dated 26.04.1999 (Annexure P-3) and 22.03.2000 (Annexure P-4) before respondent No.1, but the same too was dismissed vide order dated 17.07.2001 (Annexure P-5).

2.1 Learned counsel submits that the resolution dated 14.09.1998 (Annexure P-1), whereby the services of the petitioner were terminated, as well as the subsequent orders dated 26.04.1999, 22.03.2000 and 17.07.2001, are illegal, arbitrary and unsustainable in law, having been passed in gross violation of the applicable service rules and principles of natural justice.

3. There is no representation on behalf of respondent No.4. Accordingly, the submissions made in the written statement filed on its behalf are being taken into consideration for the purpose of adjudication of

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the present case. It has been averred therein that the services of the petitioner were terminated only after due compliance with the prescribed procedure, including issuance of a charge-sheet, conduct of a regular departmental enquiry, and adherence to the provisions of the applicable Service Rules as well as the principles of natural justice. It is further stated that the appellate authority, after duly examining the entire record of the enquiry proceedings and the relevant record of the Cooperative Society, passed a well-reasoned and speaking order, affirming the action of the disciplinary authority. Additionally, it has been submitted in the written statement that an amount of Rs.81,146/- is recoverable from the petitioner in pursuance of arbitration awards passed against him, and the Cooperative Society is entitled to effect such recovery in accordance with law.

4. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it is settled law that this Court may only exercise its powers under Article 226 of the Constitution of India when the findings recorded in a disciplinary action are arbitrary, tainted with procedural illegality, or manifest prejudice. This Court cannot reappreciate the matter on merits and substitute the conclusion drawn by the concerned authority with its own. A High Court cannot sit in appeal over decisions taken in disciplinary proceedings. The Court must confine itself to ensuring that the findings are justified by the material on record, the proceedings were conducted in compliance with prescribed procedure and principles of natural

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justice, and the penalty imposed is proportionate to the misconduct. Reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in *Union of India vs. P. Gunasekaran*, (2015) 2 SCC 610 and *S.R. Tewari vs. Union of India*, (2013) 6 SCC 602.

5. Furthermore, it transpires that the petitioner has invoked the Punjab State Cooperative Agriculture Service Societies Service Rules, 1997 (in short '1997 Service Rules'). This Court in **CWP-1422-2026**, titled '*Samarjit Singh vs. State of Punjab and others*' decided on 05.03.2026 has categorically held the 1997 Service Rules to be *ultra vires* the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as 'the 1961 Act'). The rule-making power in this regard has been bestowed upon the State Government under Section 85(2)(xxxviii) of the 1961 Act. However, the same has been illegally sub-delegated to the Registrar, Cooperative Societies under Rule 28 of the Punjab State Cooperative Societies Rules, 1963 (in short '1963 Rules'). Thus, it was concluded that a writ petition under Article 226 of the Constitution shall not remain maintainable as such Rules cannot create a legally enforceable right. Moreover, the Administrative Secretary, Department of Co-operation, Punjab had filed an affidavit in *Samarjit Singh (supra)* wherein it was specifically stated that the 1997 Service Rules are not statutory in nature. The relevant part of the said judgment is reproduced hereunder:

“24. The Administrative Secretary, Department of Co-operation, Punjab, in his affidavit (*supra*), has categorically admitted



*that the 1997 Service Rules were **neither framed by the State Government** in the exercise of its powers under Section 85 of the 1961 Act, **nor were they issued as statutory rules thereunder**. It was further deposed that the 1997 Service Rules do not possess the character of delegated legislation in terms of Section 85 of the 1961 Act, and consequently, there was no requirement for them to be laid before the State Legislature. It is settled law that where a statute confers a power on a named authority, it is *prima facie* intended to be exercised only by that authority to the exclusion of all others, unless the parent statute permits further delegation expressly or by necessary implication.*

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29. *In view of the foregoing discussion and adverting to the facts of the present case, this Court is of the considered opinion that the State Government could not have delegated its rule-making power under Section 85(2)(xxxviii) of the 1961 Act to the Registrar, Co-operative Societies. Such sub-delegation is neither expressly authorized nor permitted by necessary implication under the parent statute. Thus, this Court holds that the 1997 Service Rules are *ultra vires* the 1961 Act. Accordingly, the claim of the petitioners for leave encashment, gratuity, and other retiral benefits under the said Rules is rendered non-maintainable.”*

6. On similar grounds, a Division Bench of this Court in ***Harpreet Singh and another vs. State of Punjab and others*** 2011 SCC OnLine P&H 11491 had held the Punjab Co-operative Marketing-cum-Processing Service Societies Employees Service Rules, 1996, also framed by the Registrar, Co-operative Societies under Rule 28 of the 1963 Rules, to be invalid as they suffer from the vice of excessive delegation.

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7. Furthermore, the Hon'ble Supreme Court in *Shree Bhagwati Steel Rolling Mills (M/s.) v. Commissioner of Central Excise, 2016(3) SCC 643* has held that the Courts are not precluded from declining to enforce Rules or Regulations that are *ultra vires*, simply because a specific prayer to strike them down or declare them invalid was not made. Speaking through Justice Rohinton Fali Nariman, the following was opined:

“29. It would be seen that Shri Aggarwal is on firm ground because this Court has specifically stated that rules or Regulations which are in the nature of subordinate legislation which are ultra vires are bound to be ignored by the courts when the question of their enforcement arises and the mere fact that there is no specific relief sought for to strike down or declare them ultra vires would not stand in the court's way of not enforcing them. We also feel that since this is a question of the very jurisdiction to levy interest and is otherwise covered by a Constitution Bench decision of this Court, it would be a travesty of justice if we would not to allow Shri Aggarwal to make this submission.”

(Emphasis added)

8. This Court is of the considered opinion that the service of the petitioner was terminated only after due compliance with the prescribed procedure, including issuance of a charge-sheet, conduct of a regular departmental enquiry, and adherence to principles of natural justice. Furthermore, once the 1997 Service Rules are declared non-statutory in nature, tritely, a writ petition under Article 226 of the Constitution shall not remain maintainable as such Rules cannot create a legally enforceable right.

9. Accordingly, the present petition is dismissed, being non-maintainable.

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10. Pending application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

25.03.2026
Puneet Chawla

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No