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

CWP-9735-2026

Date of decision: 02.04.2026

Amarjeet Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing respondents No.1 to 4 to release the service benefits including salary for the period of illegal dismissal, gratuity, leave encashment and all consequential retiral benefits along with interest and further directing respondents No.1 to 4 to pass a reasoned and speaking order.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as Secretary on 15.10.1988 in respondent No.3- Multipurpose Co-operative Agriculture Service Society Ltd. and retired after rendering service for nearly three decades. It is submitted that the petitioner vide representation dated 06.07.2018 (Annexure P-1) brought to the notice of the Managing Committee certain financial irregularities allegedly committed by the Branch Manager of the Central Co-operative Bank. Thereafter, the petitioner was falsely implicated and served with a charge-sheet dated



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20.11.2018 (Annexure P-4), culminating in his dismissal from service. It is further submitted that the petitioner earlier approached this Court by filing CWP No.7746 of 2021 titled ***Amarjeet Singh vs. State of Punjab and others*** decided on 23.03.2023 (Annexure P-7), whereby, the Managing Committee was directed to proceed afresh from the stage of consideration of the enquiry report. The Deputy Registrar, Co-operative Societies, Fatehgarh Sahib also held that the Managing Committee had acted illegally. Thereafter, the petitioner submitted a detailed representation dated 11.04.2025 (Annexure P-8). It is contended that the impugned action is contrary to the Punjab State Co-operative Agricultural Service Societies Service Rules, 1997 (hereinafter referred to as 'Service Rules of 1997') and despite the procedure prescribed therein, respondent No.3 failed to act in accordance with law. As such, the petitioner claims entitlement to all service benefits, including salary.

3. *Per contra*, learned State counsel at the outset submits that this Court in CWP No.1422 of 2026 titled as ***Samarjit Singh Vs. State of Punjab and others*** decided on 05.03.2026 has considered the issue of maintainability of the writ petition for violation of the Service Rules of 1997 and held that the aforesaid rules are not legally enacted and not enforceable and thus, the present petition is not maintainable and deserves to be dismissed in terms of the aforesaid judgment.

4. Having heard learned counsel for the parties and after perusal of the record, it transpires that the petitioner served the respondent Society for over three decades and was subsequently, dismissed following disciplinary proceedings. The petitioner claims entitlement to service benefits, including



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salary for the period of dismissal, gratuity, leave encashment and other retiral benefits. Learned counsel for the petitioner relies upon the Service Rules of 1997 contending that the dismissal was in violation of the statutory procedure. However, it is observed that these Rules are not statutory in nature and have not been validly enacted, as held by this Court in *Samarjit Singh's case (supra)*.

5. 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 Co-operative Societies Rules, (hereinafter referred to as 'the 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.

xx xx xx
 29. *In view of the foregoing discussion and advertent 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.

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



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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. As such, once the applicable 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 the present writ petition is dismissed being non-maintainable.

(HARPREET SINGH BRAR)
JUDGE

02.04.2026

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No