2026:PHHC:013691

204 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-11415-2020
Date of decision: 30.01.2026

RAJ KUMAR BISHNOI **....Petitioner**

Versus

HARYANA STATE FEDERATION OF CONSUMERS COOPERATIVE WHOLESALE STORES LTD. AND ANR.
....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Puneet Jindal, Senior Advocate with
Mr. Rahul Bansal, Advocate
for the petitioner.

Mr. Hitesh Pandit, Advocate
for respondents.

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HARPREET SINGH BRAR, J (Oral):

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *Certiorari* for quashing order dated 07.04.2017 (Annexure P-8) passed by the Disciplinary Authority/Respondent No.2, whereby a sum of Rs.14,57,167/- has been wrongly and illegally ordered to be recovered from the petitioner allegedly on the alleged ground that the petitioner had wrongly drawn salary for the period from 01.08.2013 to 23.07.2015 as well as the order dated 20.05.2019 (Annexure P-10) passed by Appellate Authority/Respondent No.3 with a further prayer for issuance of a writ in the nature of *Mandamus* directing the respondent to release the entire retiral benefits of the petitioner for the service rendered by him from February 1982 to July 2015 along with interest @ 18%.

2. Learned counsel for the petitioner *inter alia,* contends that the show cause notice was issued to the petitioner on the ground that the

petitioner has continued to work beyond attaining the age of 58 years i.e. the age of his superannuation, and that the salary paid to him up to the date of his retirement on 24.07.2015 is ordered to be recovered. Learned counsel for the petitioner further refers to the preliminary enquiry and submits that the Enquiry Officer recorded a categorical finding that the petitioner was not a beneficiary of any manipulation and had no role in making date of birth entry the seniority list. The Enquiry Officer fixed responsibility upon those officials who were entrusted with the duty of maintaining and circulating the seniority list. However, it was concluded that the petitioner has not informed the Department that his date of birth is 10.07.1955 and that he was due to retire in the year 2013. Thereafter, the punishing authority, vide the impugned order dated 07.04.2017, ordered recovery of a sum of Rs.14,57,167/- from the petitioner.

2.1. Learned counsel for the petitioner further submits that admittedly Departmental proceedings were not conducted, following the drill of the procedure prescribed under the Staff Service Rules, 1975 of the Haryana State Federation of Consumer Cooperative Societies. Admittedly, no charge-sheet was ever served upon the petitioner in terms of Rule 60. Learned counsel for the petitioner further refers to Rule 16, which provides that in the interest of administrative work of the respondents-Federation, an employee may be granted extension of two years beyond the age of 58 years. At the relevant time, there was acute shortage of staff and the petitioner was also given additional charge of the adjoining District in the interest of administration, for which no extra remuneration was paid as is evident from Annexures P-2 and P-3.

3. On the other hand, learned counsel for respondents-Federation submits that the complicity of the petitioner is writ large. The petitioner was

well aware of the fact that his date of birth is 10.07.1955 and yet he continued to work beyond the age of superannuation and received financial benefits to which he was not entitled. Therefore, he is liable to be punished in terms of the recommendation made by the Enquiry Officer. Learned counsel for respondents-Federation submits that the petitioner is a well-educated person and was working on post of Accountant, Grade-A. One of the duties of a Grade-A Accountant is to prepare salary statements of employees as well as no dues certificates of retiring employees in time. Therefore, it is unbelievable to contend that he was unaware of his date of retirement, especially when all his co-employees retired upon attaining the age of 58 years. No formal order granting extension under Rule 16(E) was ever passed. The petitioner remained in service beyond his date of retirement on the basis of a fraudulent act by intentionally not disclosing the date of his superannuation to the concerned authorities by continuing to draw salary, which clearly establishes his complicity.

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance. It transpires that the petitioner's date of birth is 15.07.1955 and he was due to retire on 31.07.2013 whereas he continued to work till 24.07.2015. A perusal of the Rule 60, of the Service Rules, 1975 clearly indicates that the departmental proceedings, if instituted while an employees was in service, even after his retirement, shall be deemed to be proceedings under Rule 60 and shall be continued and concluded by the authority by which they were commenced, in the same manner as if the employee had continued in service. The relevant portion of Rule 60 reads as under:-

> *"60. The Confed further reserve to themselves the right of withholding or withdrawing retrial benefit or any part of*

it, whether permanently or for a specified period and the right of ordering the recovery from retrial benefits of the whole or part of any pecuniary loss caused to Confed. if misconduct or to have cause pecuniary loss to Confed by misconduct or negligence during his service including service rendered on reemployment after retirement either by issue notice or through Land Revenue Department as arrear of land revenue.

Provided that:-

(1) Such departmental proceedings, if instituted while the employee was in service whether before his retirement or during re-employment shall after the final retirement of the employee, be deemed to be a proceeding under this rule and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service.

(2) Such Departmental proceedings, if not instituted while the employee was on duty either before retirement or during re-employment:

(I) Shall not be instituted save with the sanction of the Competent Authority.

(ii) Shall be in respect of an event which took place not more than four years before the institution of such proceedings; and

(iii) Shall be conducted by such authority and at such place or places as the Competent Authority may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made;

(3) Such judicial proceedings, if not instituted while the employee was on duty either before his retirement or during his re-employment, shall be instituted in respect of an event as is mentioned in clause (ii) of proviso (2); and

(1) The Competent Authority shall be consulted before final orders are passed.

Explanation: for the purpose of this rule:-

(1) Departmental proceedings shall be deemed to have been instituted when the charges framed against the retiree are issued to him or, if the employee has been placed under suspension from an earlier date, on such date; and

(2) Judicial proceedings shall be deemed to have been instituted;

(I) in the case of criminal proceeding, on the date on which the complaint is made or as challan is submitted to a criminal court: and

(ii) In the case of Civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is made to Civil Court."

5. There is no dispute that Rule 60 confers power upon the respondents-Federation to withhold or withdraw retiral benefits in the event of misconduct, subject to departmental proceedings being conducted in accordance with law. The explanation to Rule 60 clearly provides that departmental proceedings shall be deemed to have been instituted only when a charge-sheet is issued to the employee. Admittedly, no charge-sheet was ever served upon the petitioner. A mere show-cause notice was issued on 14.03.2016, i.e. after his retirement on 24.07.2015. Therefore, this Court has no hesitation in holding that the impugned punishment order has been passed without following the due procedure prescribed under Rule 60. This Court is not inclined to return any finding on the issue as to whether the petitioner was complicit in continuing beyond the age of superannuation, particularly in view of Rule 16, the acute shortage of staff, and the fact that the petitioner was entrusted with additional charge of the adjoining District as evident from Annexures P-2 and P-3.

6. In view of the facts and circumstances of the case, this Court, in exercise of powers under Article 226 of the Constitution of India, is inclined to interfere. It is undisputed that the respondents-Federation utilized his services. At this stage, it would not be proper to allow the recovery from his retiral benefits. There are no allegations of fraud proved against the petitioner and the respondents-Federation itself allowed him to continue in service and even assigned additional charge of the adjoining district.

7. Accordingly, the writ petition is allowed and the orders dated 07.04.2017 (Annexure P-8) and 20.05.2019 (Annexure P-10) passed by the Punishing and Appellate Authorities respectively, are set aside. Respondents are directed to release the retrial benefits to the petitioner for the service rendered by him from February 1982 to July 2015 along with interest @ 6 % per annum from after two months of the date of his retirement till its actual realization. Needful be done within a period of three months from the date of receipt of a certified copy of this order.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

30.01.2026
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1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No