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

CWP-21997-2018

Jatinder Pal Singh

…Petitioner

VERSUS

Managing Director, Punjab State Federation of Cooperative Sugar Mills Ltd and another

…Respondents

1.	**Date when judgment was reserved**	**09.04.2026**
2.	**Date of pronouncement of judgment**	**29.05.2026**
3.	**Date of uploading judgment**	**29.05.2026**
4.	**Whether operative part or full judgment is pronounced**	**Full**
5.	**Delay, if any, in pronouncing of full judgment and reasons thereof**	**-NA-**

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present:- Mr. Jatinder Pal Singh, petitioner in person

Ms. Anamika Sheoran, Advocate
for the respondents.

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HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the orders dated 14.01.2016 (Annexure P-5) and 27.02.2017 (Annexure P-8) whereby the pay of the petitioner has been

wrongly fixed and the service benefits of the petitioner has been denied in a wrong and illegal manner. The petitioner further seeks issuance of a writ in the nature of mandamus directing the respondents to refix the pay of the petitioner by giving him benefits of all the increments and all consequential retiral benefits by treating his service as continuous for all intents and purposes.

<u>FACTUAL BACKGROUND</u>

2. Brief facts necessary for adjudication of the present writ petition are that the petitioner initially joined service with the respondent-Mill as Assistant Store Keeper. His services came to be terminated on 10.06.1994. Aggrieved against the said action, the petitioner raised an industrial dispute. The matter was referred to the Industrial Tribunal/Labour Court, Ludhiana.

3. Subsequently, learned Tribunal vide award dated 6.12.2002 (Annexure P-1) held the termination to be illegal and directed reinstatement with continuity of service alongwith 25% back wages. The findings recorded by the Tribunal reveal that the management had failed to establish proper service of notices upon the workman and the domestic inquiry was not conducted in accordance with law. The Tribunal further noticed that the workman had promptly approached the Labour Authorities and had consistently asserted that he was willing to discharge duties.

4. The award passed by the learned Tribunal was challenged before this Court in **CWP No.11749 of 2003** titled ***The Budhewal Cooperative Sugar Mills Ltd. vs. Presiding Officer, Labour Court, Ludhiana and another*** decided on 21.11.2014(Annexure P-2)**.** The learned Single Judge remanded the matter to the Labour Court primarily for adjudication regarding service of notices and fairness of inquiry proceedings. Thereafter, the Division Bench in **LPA No.18 of 2015** decided on 09.02.2015(Annexure P-3) upheld the remand order while observing that the Labour Court was required to record findings regarding receipt of notices allegedly issued to the workman. Ultimately, the matter stood adjudicated in favour of the petitioner-workman.

5. The learned Tribunal vide award dated 18.05.2015 (Annexure P-4) held that the termination of services of the workman was illegal and unjustified. The Learned Tribunal specifically examined the issue as to whether the notices allegedly issued by the management directing the workman to resume duties had in fact been served upon him and whether a fair and proper domestic inquiry had been conducted before termination. The Learned Tribunal noticed that although the management claimed to have issued various letters and charge-sheet notices, the evidence on record did not satisfactorily establish due service upon the workman. It was further observed that the Inquiry Officer admitted during cross-examination that the inquiry findings were neither dated nor properly signed and no effective

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opportunity of defence had been granted to the workman. The Learned Tribunal also took note of the fact that the workman had consistently asserted that he had never received any charge-sheet or show cause notice and that the inquiry proceedings were conducted behind his back. Consequently, the Learned Tribunal concluded that the domestic inquiry stood vitiated and the action of the management could not be sustained in law. The Learned Tribunal further observed that the workman had promptly approached the Labour Authorities immediately after denial of duties, which clearly reflected his willingness to continue in service. The plea of abandonment raised by the management was thus rejected. Resultantly, the order terminating the services of the workman was set aside and he was directed to be reinstated in service with continuity of service alongwith 50% back wages.

6. Pursuant to the award, the petitioner rejoined service on 17.10.2015. At the time of reinstatement, the petitioner was fixed in the pay scale carrying basic pay of Rs.7040/- with Grade Pay of Rs.2400/- (Total Rs.9440/-). The grievance of the petitioner is that despite grant of continuity of service, the respondents failed to grant annual increments and notional fixation from the date of termination till reinstatement. The petitioner has pleaded that similarly situated employees namely Jaswinder Singh and Mohan Kaushal, who were initially drawing pay equal to or lower than the

petitioner, are now drawing substantially higher salaries such as Rs.14630/- and Rs.14,390/- respectively.

<u>CONTENTIONS</u>

7. Learned counsel for the petitioner contends that once continuity of service has been granted by the Labour Court, the petitioner is entitled to all consequential service benefits including annual increments, ACP benefits and revised pay fixation. It is argued that denial of such benefits defeats the very purpose of continuity of service granted under the award.

8. *Per contra*, learned counsel appearing on behalf of the respondents has raised a preliminary objection regarding maintainability of the present writ petition. It is contended that respondent No.2 is a Cooperative Sugar Mill registered under the Punjab Cooperative Societies Act and is not a State or instrumentality of the State within the meaning of Article 12 of the Constitution of India. It is further argued that the respondent-Mill is engaged in manufacture and sale of sugar and does not perform any public function. Consequently, the present writ petition is liable to be dismissed as not maintainable.

<u>OBSERVATION AND ANALYSIS</u>

9. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that once continuity of service has been granted by the learned Tribunal, the petitioner is entitled to all consequential service benefits including annual increments, ACP benefits

and revised pay fixation. However, this Court finds merit in the argument raised by learned counsel regarding maintainability of the present writ petition where relief has been sought from a private sugar mill.

10. A Two-Judge Bench of the Hon'ble Supreme Court in ***General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur, UP vs. Satrughan Nishad and others, (2003) 8 SCC 639*** has categorically held that jurisdiction of the High Court under Article 226 of the Constitution could not be invoked with respect to a Mill that is engaged in the manufacture and sale of sugar as the same does not involve the discharge of any public function or duty. The Apex Court relied on its earlier judgments in ***Ajay Hasia and others vs. Khalid Mujib Sehravardi and others, 1981(1) SCC 722, Ramana Dayaram Shetty vs. International Airport Authority of India and others, 1979(3) SCC 489 and Pradeep Kumar Biswas vs. Indian Institute of Chemical Biology and others, 2002(2) SCT 1067 (SC)*** and observed that:

> *"From the decisions referred to above, it would be clear that the form in which the body is constituted, namely, whether it is a society or co-operative or a company, is not decisive. The real status of the body with respect to the control of Government would have to be looked into. The various tests as indicated above, would have to be applied and considered cumulatively. There can be no hard and fast formula and in different facts/situations, different factors may be found to be overwhelming and indicating that thebody is an authority under Article 12 of the Constitution..."*

11. A Coordinate Bench of this Court in **CWP No. 4662 of 2016** titled as ***Khushhal Singh v. State of Punjab***, has relied on the judgment of Hon'ble Supreme Court in ***Kisan Sahkari Chini Mills (supra)*** and held as follows:

> ***"But this Court would make no comment on the judgment since I am of the considered view that a writ is not maintainable against the Mills and to reach the conclusion the ratio in Kisan Sahkari Chini Mills case is the case in point. The respondent Mills are not involved in performance of public duty. If the rights are purely of a private character no mandamus can issue. The activity should be engaged in obligations akin to public duties or State functions to bring it within the sphere of Article 226 of our Constitution. The body to become amenable to writ should be financially, functionally and administratively dominated by or under the control of the Government***; *see Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and others, (2002) 5 SCC 111. I find none of the essential ingredients present in this case clearly demonstrated.* ***If the writ petition is not maintainable then it has to be dismissed without any further discussion on facts. If the petition has to be dismissed for want of maintainability, then the petitioner may avail his remedy elsewhere when the right to sue subsists but remedy lies in some other forum for judicial control of administrative acts complained of. Therefore, the merits of the case have not been dealt with in this case after coming to the conclusion that the writ must fail on the point of maintainability.*** *No material has been placed on the record from where the Court may take a different view applying the recognised tests say in V.R. Rudani (supra) or more expansively in Zee Telefilms Ltd. and another v. Union of India and others, (2005) 4 SCC 649."* *(emphasis supplied)*

12. Reliance can also be placed on the coordinate bench judgments of this Court *in* ***CWP-17214 of 2020 (O&M)*** titled as ***Ram Niwas vs. Haryana State Federation of Cooperative Sugar Mills Limited, CWP-13579 of 2015*** titled as ***Khajan Singh vs. Kaithal Cooperative Sugar Mill Ltd, CWP No.27691 of 2022*** titled as ***Harjinder Singh vs. Punjab State Federation of Cooperative Sugar Mills Ltd. and others*** and ***CWP 16045 of 1999 (O&M)*** titled *as* ***Joginder Singh vs. Registrar, Patiala Cooperative Sugar Mills and others*** wherein this Court has reiterated the view that Sugar Mills engaged in the manufacture and sale of sugar are not engaged in any public function and therefore, are not amenable to writ jurisdiction under Article 226 of the Constitution.

13. In view of the foregoing discussions, the present writ petition is held to be not maintainable and is, accordingly, dismissed on this ground alone. However, the petitioner would be at liberty to avail his remedies before the appropriate forum for the redressal of grievance raised in the present petition. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

29.05.2026
parul verma

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