



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

120

LPA-1607-2025 (O&M)

DATE OF DECISION: 19.03.2026

MANAGING DIRECTOR, THE PUNJAB
STATE COOPERATIVE SUPPLY &
MARKETING FEDERATION LTD

... Appellant

Versus

SMT KIRAN SHARMA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vikas Singh, Senior Advocate with
Ms. Simarpreet Kaur Dhawan, Advocate for the appellant.

SUVIR SEHGAL, J.

CM-3939-LPA-2025

1. For the reasons given in the application which is supported with an affidavit of the counsel for the appellant, delay of 90 days in refiling the appeal is condoned.

CM-3940-LPA-2025

2. There is a delay of 1881 days in filing of the appeal.

3. Senior counsel for the appellant states that the writ petition was decided on 26.09.2019 and an application for recalling was instituted on 30.11.2019. He states that the application remained pending and was rejected on 28.10.2024. Senior counsel submits that immediately thereafter present appeal was instituted on 13.12.2024, which resulted in a delay of 1881 days. It is his assertion that the delay is on account of the fact that before filing the present appeal,



appellant had sought clarification of the order passed by the writ Court.

4. This Court is satisfied with the explanation given by the appellant and is of the view that sufficient cause has been made for the condonation of delay. Accordingly, application is allowed. Delay of 1881 days in filing the appeal is condoned.

Main case

5. This Letters Patent Appeal has been filed assailing judgment dated 26.09.2019 passed by the learned Single Judge, whereby writ petition filed by respondent No.1, has been accepted.

6. Respondent No.1/writ petitioner joined service with Constofed as a Junior Scale Stenographer in December, 1988 and was on deputation with Labour Court, U.T., Chandigarh. By notification dated 03.07.2021 (Annexure P-1) Constofed was amalgamated with Markfed and all its 54 employees were absorbed in Markfed. A decision was taken by the Board of Directors of Markfed on 07.06.2001 that the absorbed employees shall be posted at various places subject to certain terms and conditions. When respondent No.1 joined back her parent department i.e., Markfed on 14.01.2008, she came to know that some of employees junior to her, had been promoted as Senior Scale Stenographers. She submitted representations and a legal notice but vide impugned response dated 14.10.2010 (Annexure P-5), she was informed that she cannot be promoted because of Clause 10.0 (ii) whereby her post has been treated as a personal post which is to be abolished when she retires.

7. Upon notice, writ petition has been contested by Markfed by filing a written statement wherein it has been stated that all the 54 employees of the Constofed were absorbed in Markfed in equivalent rank and pay but all the posts were treated as personal posts which are to be abolished as soon as these



employees retire, resign or die. It has been stated that this condition has been mentioned in the amalgamation order which is deemed to have been accepted by respondent No.1. Justifying the amalgamation, Markfed stated that as the financial condition of Constofed was very weak, amalgamation was made in the interest of the society as well as its employees. Another objection has been raised that respondent No.1 had efficacious remedy of filing a revision petition under Section 69 of the Punjab Co-operative Societies Act, 1961 (for short – ‘1961 Act’) and writ petition is not maintainable.

8. Mr. Vikas Singh, learned Senior counsel for the appellant has argued that the writ Court had misinterpreted the conditions of absorption. It is his assertion that writ petitioner could not claim seniority as the post was personal to the employee. A contention has been raised by him that as the petitioner has an efficacious remedy of filing a revision petition, writ petition was not maintainable and the writ Court has erred in accepting the petition.

9. We have considered the arguments addressed by the Senior counsel for the appellant as well as examined the paper book and the impugned judgment.

10. In order to determine the controversy, it is necessary to examine the amalgamation order (Annexure P-9) passed by the Registrar Co-operative Societies, Punjab. Its relevant extract is reproduced hereunder:-

“10.0 After considering the objections/claims received subsequent to the notice of 8.12.2000 as above and finding that both, Markfed and Constofed or their members and creditors have not raised any substantive objection to the proposed amalgamation, I am satisfied that it is necessary and in the interest of the two Co-operative societies to amalgamate Constofed with Markfed. Accordingly, exercising the powers conferred upon me under Section 13(8) of the Act ibid, I order the amalgamation of Constofed with Markfed, subject to following terms and conditions:



- i) Markfed will take over all assets and liabilities of Constofed;
- ii) All the 54 employees of Constofed will be absorbed in Markfed in equivalent rank and pay. However, these 54 posts will be treated as personal posts meaning thereby that the posts will be abolished as soon as any of these employees retires, resigns or dies;
- iii) The other terms and conditions will be governed by Markfed Employees' Rules from the date they join the service in Markfed;
- iv) to vii)

xxx xxx xxx

1 1.0 In view of the above amalgamation order under Section 13(8) of the Act *ibid*, the registration of Constofed shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body from the date of these orders and the members of Constofed shall become members of Markfed in keeping with the provisions of Section 14 of the Act *ibid*.

Sd/-

Registrar,
Cooperative Societies, Punjab,
Chandigarh.”

(emphasis supplied)

11. A perusal of the above reproduced terms and conditions show that all the 54 employees were absorbed in Markfed in equal rank and pay and the posts were treated as personal posts, but sub-clause(iii) of Clause 10.0 stipulate that the other terms and conditions of service shall be governed by Markfed Employees Rules from the date when the absorbed employees join the service with Markfed. The services of the employees of the Markfed are governed by the Punjab State Co-operative Supply and Marketing Federation Employees (Common Cadre) Service Rules, 1990 (hereinafter referred to as ‘Service Rules’). Rule 2 of the Service Rules provides for the appointment and conditions of service. Rule 2.2 lays down the general conditions regarding appointments. Rule 2.16, *ibid* mentions that the *inter se* seniority of the members of service in each cadre shall be



determined by the length of continuous service on a post in that cadre of the service. Group-C of Annexure-2 of these Service Rules provides that post of Senior Scale Stenographer is to be filled up 100% by promotion from Junior Scale Stenographers subject to conditions laid down therein. Once respondent No.1 stood absorbed with Markfed, she became a member of service of Markfed. She carries with her the initial date of appointment as well as her length of service. There is no provision in the terms and conditions or Service Rules which bars her from availing the benefit of the prior service rendered with Constofed. Merely because the post has been declared to be personal and is to be abolished on retirement etc., does not deprive her of the benefit of her past service. Respondent No.1, therefore, has to get the advantage of her past service and seniority over her colleagues, who were originally working with Markfed. She is entitled to benefit of length of service as well as promotion as per Service Rules, which has been rightly granted by learned Single Judge.

12. In so far as the remedy of a revision petition is concerned, suffice is to mention that Sub-Section(4) of Section 69 of 1961 Act provides that remedy of revision is not available against any order passed under Service Rules. Therefore, respondent No.1 cannot file a revision petition under the 1961 Act. This Court does not find any infirmity or impropriety in the judgment passed by the writ Court.

13. There is no merit in the Letters Patent Appeal, which is dismissed with no order as to costs.

(SUVIR SEHGAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

19.03.2026
sapna

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