
(2002) 11 P&H CK 0110

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No"s. 14042 and 17881 of 2001 and 4474 of 2002

Balbir Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 28-11-2002

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2003) 133 PLR 318

Hon'ble Judges : S.S. Nijjar, J;M.M. Kumar, J

Bench : Division Bench

Advocate : B.S. Walia, for the Appellant; H.S. Saran, Addl. A.G., H.N.S. Gill and Ashwani Chopra, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—This order will dispose of Civil Writ Petition Nos. 14042, 17881 of 2001 and 4474 of 2002. For the sake of convenience, facts are being taken from C.W.P. No.14042 of 2001.

2. Petitioners who are working on daily wages as Guards with different branches of respondent No. 4 seek a writ of mandamus directing the respondents to regularise their services in the light of the instructions dated 23.1.2002 Annexure P.17.

3. It is vehemently argued by the learned counsel for the petitioners that instructions dated 23.1.2001 are illegally not being followed by the respondent-Bank. The petitioners came into service at the time when terrorism was at its peak in the State of Punjab. They having rendered yeomen service to the State are entitled to be considered for regularisation.

4. In the written statement filed by respondent No. 4 it is categorically stated that the instructions/notifications issued by the State of Punjab are not applicable to the Bank. The Board of Directors of the Bank has not adopted any such notification/instructions. Therefore, the petitioners cannot draw any benefit from

the said instructions.

5. Mr. B.S. Walia, has however, argued that these instructions ought to have been adopted by the Bank in view of the directions issued by the Supreme Court in the case of State of Haryana and others Vs. Piara Singh and others etc. etc., . He has made particular reference to the observations made by the Supreme Court in para 26 of the judgment.

6. After hearing the learned counsel, we are of the considered -opinion that the stand taken by the respondents is in accordance with the settled law. Shri H.S. Sran, learned Additional Advocate General has submitted that respondent No. 4 cannot be equated with the statutory body or the instrumentality of the State as envisaged by the Supreme Court in Para 26 of the judgment in Piara Singh's case (supra). Learned counsel has submitted that cooperative society is under the control of elected Board of Directors. Therefore, it would not be ipso facto amenable to all the instructions which might be issued by the State of Punjab. We find much force in the submissions made by the learned Additional Advocate General. Further more, it is to be noticed that this very controversy was raised in C.W.P. No.18839 of 2001 (Hari Chand and Anr. v. State of Punjab and Ors.) decided on 26.2.2002 wherein the Division Bench of this Court has observed as follows:-

"Admittedly, the petitioners are working on daily wages. It has not been shown, that their appointments were made after any selection or in accordance with the rules governing the recruitment to the service. The Bank has advertised the posts. Indisputably, all the applicants have a right to be considered. In cases the petitioners have submitted their applications, they would be entitled to compete with the other eligible candidates provided they fulfil the prescribed qualifications.

Mr. Mann contends that the petitioners are entitled to be regularised. This claim cannot be accepted. The Board of Directors of respondent-Bank has not adopted the instructions issued by the State of Punjab. The specific averment made in para 5 of the written statement filed on. behalf of respondent No. 4 separately, has not been controverted by filing a replication. Nothing has been produced on record to show that the instructions issued by the State Government are ipso-facto binding on the Co-operative Societies. In this situation, it cannot be said that the instructions issued by the State Government confer a right on the petitioners to claim regularisation.

7. A perusal of the above observations of the Division Bench shows that in that case, the petitioners had not been able to show that their appointments were made after any selection or in accordance with the rules governing recruitment to the service. In the present case also, it is not the case of the petitioners that they have been selected after the posts were duly advertised or that they have faced any selection procedure. We are of the considered opinion that the Board of Directors having not adopted the instructions as is evident from he resolution dated 9.7.2001, the claim of the petitioners for their regularisation must fail. In

the aforesaid resolution, it was unanimously resolved as follows:

Agenda Proceedings

Regarding consideration of the letter issued by the Punjab State Coop. Bank Ltd. Chandigarh vide endst. No. CCEA 1/11513-14 dated 28.4.2001 in which he has forwarded a copy of the instructions issued by the Govt. of Punjab dated 23.1.2001 for regularisation of daily wage employees. It was unanimously resolved that the stated letter of Punjab Govt. in the agenda is applicable to employees of the Punjab Govt. No action is required on this.

8. In view of the above, we find no merit in all the three writ petitions and the same are dismissed.

Sd/- M.M. Kumar, J.