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**(2007) 11 P&H CK 0105**  
**In the Punjab And Haryana At Chandigarh**

Jaswinder Singh Bhui

APPELLANT

Vs

Additional Registrar (C) Cooperative Societies and Others

RESPONDENT

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**Date of Decision :** 16-11-2007

**Acts Referred:**

Punjab Co-operative Societies Act, 1961 — Section 54

**Citation :** (2007) 11 P&H CK 0105

**Hon'ble Judges :** Ajai Lamba, J;A.K. Goel, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## Judgement

Adarsh Kumar Goel, J.—This petition seeks quashing of orders dated 26.5.2003, 22.7.2004 and 24.3.2006, Annexures P-1 to P-3 respectively.

2. The petitioner was in the service of Punjab State Handloom Weavers Apex Cooperative Society Ltd. (WEAVCO), respondent No. 4. He was dismissed from service on the charges of embezzlement vide order dated 26.5.2003, Annexure P-1. His appeal and revision have been dismissed. A perusal of the impugned orders shows that the petitioner was charged with the misconduct of misappropriation. He did not give reply to the chargesheet, given to him vide letter dated 9.4.2000 under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short, "the 1970 Rules"). The Chief Executive Officer, Shoddy Spinning Plant, Humbera was appointed as Inquiry Officer, who held the charges to be proved. It was found that the petitioner gave thread to M/s Bharat Weavers Ltd., Phagwara and Niag Weavers CIC Weavers Ltd., Hoshiarpur on credit. He gave a statement that the amount be deducted from his salary. He gave thread to M/s Johal Weavers CIS Ltd., Johlan Society for Rs. 18,367/-. He received the amount, but used the same for his personal gain. The amount of Rs. 80,788/- was recoverable from him. A copy of inquiry report was served on the petitioner, but no reply was received.

3. The petitioner was given another chargesheet dated 7.1.2002, which was also

not replied by him, on which, the same Inquiry Officer was appointed vide letter dated 13.3.2002, who gave his report dated 20.9.2002 holding charges No. 1, 2(a) and 4 to be proved. The charge No. 1 related to misappropriation of Rs. 84,965/71. Charge No. 2(a) related to receiving thread from Hoshiarpur Bank by causing loss of Rs. 39,360/80. Charge No. 4 related to misuse of power by causing loss to the society to the extent of Rs. 1,31,356/07.

4. Copy of the inquiry report was supplied to him, but he did not give any reply. He was given opportunity to appear in person, which he did not avail and sought adjournment. He was given another opportunity and after personal hearing, charges were held to have been proved. The disciplinary authority accepted the report of the Inquiry Officer and directed dismissal from service and recovery of the amount from him.

5. The appellate authority as well as the revisional authority affirmed the said order.

6. Only contention raised by learned Counsel for the petitioner is that in view of provision of Section 54 of the Punjab Cooperative Societies Act, 1961 (for short, "the Act"), only recovery of loss caused could be effected from him and no disciplinary action could be taken. Reliance has been placed on judgments of Single Bench of this Court in *State of Punjab v. Rikhi Dev Kumar* 1996(1) PLR 383 and *Shri Tejinder Singh Sandhu v. The State of Punjab and Anr.* 1973(2) SLR 132.

7. Learned Counsel for the respondents supported the impugned order. It was submitted that services of the petitioners were governed by The Punjab State Handloom Weavers Apex Cooperative Societies Service Rules, 1995. Rule 2.20 thereof, provides that the employees will be governed by the provisions of the 1970 Rules. Section 54 of the Act did not debar disciplinary proceedings. The scope of Section 54 of the Act was limited to recovery of loss while object of disciplinary proceedings was to maintain discipline.

8. The question for consideration is whether provision for recovery of loss, caused by an employee, debars action being taken for misconduct under the rules.

9. We find no difficulty in holding that provision for recovery of the amount of loss caused by an employee u/s 54 of the Act did not debar the employer from initiating disciplinary proceedings for a misconduct. Section 54 of the Act is as under:

54. Surcharge.-(1) If in the course of an audit, inquiry, inspection or the winding up of a co-operative society it is found that any person, who is or was entrusted with the Organisation or management of such society or who is or has at any time been an the Officer or an employee of the society, has made any payment contrary to this Act, the rules of the bye-laws or has caused any deficiency in the assets of the society by breach of trust of willful negligence or has

misappropriated or fraudulently, retained any money or other property belonging to such society, the Registrar may of his own motion or on the application of the committee, liquidator or any creditor, enquire himself or direct a person authorised by him, by an order in writing in this behalf, to enquire into the conduct of such person:

Provided that no such inquiry shall be held after the expiry of six years from the date of any act or omission referred to in this sub section.

(2) Where an inquiry is made under Sub-section (1) Registrar may, after giving the person concerned an opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and cost or compensation to such extent, as the Registrar may consider just and equitable.

10. Rule 5 of the 1970 Rules provides for imposition of penalties for good and sufficient cause. It includes minor and major penalties. The power to impose such penalties does not come to an end merely by recovery of the amount misappropriated by an employee. We are unable to subscribe to the contrary view expressed in Single Bench judgments relied upon on behalf of the petitioner. It was inter-alia held therein that Section 54 of the Act was special provision which excluded general provisions for disciplinary proceedings. We are of the view that Section 54 is not a special provision on the issue of disciplinary proceedings but only deals with recovery which is different from disciplinary proceedings.

11. In view of above, we do not find any merit in this petition.

12. The writ petition is dismissed.