(1998) 05 P&H CK 0016

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 17366 of 1997

Ram Kumar and Others APPELLANT

Vs

Batala Co-operative Sugar Mills Limited RESPONDENT

Date of Decision : 20-05-1998

Acts Referred:

Citation : (1999) 3 LLJ 1303

Hon'ble Judges : V.K. Bali, J;M.L. Singhal, J

Bench : Division Bench

Advocate : Anu Chatrath, for the Appellant; Vinod Sharma, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Bali, J.—The challenge herein is to the order of reversion dated August 26, 1997 (Annexure P-4).

2. The facts of the case as projected by the petitioners reveal that they were appointed as Token Boys in Co-operative Sugar Mills Ltd., Batala on temporary/ ad hoc basis. The Administrative Committee as constituted under Rule 3.4 of the Punjab State Co-operative Sugar Mills Service Rules, 1991, considered the case of the petitioners and other employees and recommended them for appointment as Seasonal Permanent Token Boys. On December 21, 1996 in view of the recommendation made by the appointment/ Selection Committee of the Mills, the petitioners who were working as Token Boys on ad hoc temporary basis were appointed as Seasonal Permanent Token Boys on the basis of their seniority in the unskilled grade of Rs. 800-1050. Election of Punjab Vidhan Sabha was held in February 1997 and Akali-B.J.P combine came into power. Managing Director of the Sugar Mill was transferred by the ruling party with a view to adjust their own men and some members of the Board of Directors who did not like the petitioners being the members of the opposite party, started manoeuvring the order vide which the petitioners were appointed as Permanent Token Boys. On July 19, 1997 a show cause notice was issued to the petitioners and they were

asked so as to why they should not be reverted to their substantive posts on ad hoc/temporary basis in view of Rules 3.3., 3.4, and 3.10 of 1991 Rules and Clause 20 (XXII) of the Model Bye-Laws of the Mill. Petitioners submitted reply within the stipulated period justifying their appointment as Seasonal Permanent Token Boys. Not being satisfied with the reply filed by the petitioners, the respondents passed order of reversion. The petitioners were reverted on the substantive posts on ad hoc/temporary basis. As mentioned above, it is this reversion order that has been challenged and the primary argument that has been pressed into service at the time of arguments was that respondents have no power to pass the impugned order as petitioners were made Seasonal Permanent Token Boys according to 1991 Rules by the Selection Committee constituted under Rule 3.4 on the basis of seniority-cum-merit.

3. In the context of the written statement that has been filed opposing the cause of the petitioners, we are, however, of the view that the case of the petitioner is on a very weak wicket and, therefore, the petition deserves to be dismissed. It has inter alia been pleaded in the written statement that the order vide which the petitioners were made Seasonal Permanent Token Boys was not passed by the competent authority as no recommendations were made by the Administrative Committee as envisaged under the Rules. So much so case of all eligible persons was not even considered. The recommendations said to have been made in favour of the petitioners were not made by the Administrative Committee in terms of the Rules but by a Selection Committee constituted by the Managing Director on his own in violation of the Rules. A complaint was made by the Board of Directors with regard to illegal appointments made by the Managing Director in violation of Rules and new Managing Director looked into the matter and accordingly show cause notice Annexure P-2 was issued to the petitioner. Perusal of Annexure P-2 would itself reveal that the Managing Director addressed a letter (show cause notice) on July 19, 1997 to the petitioner-Ram Kumar that the Committee constituted by the then Managing Director vide his office order dated November 21, 1996 to select managerial, administrative, technical and financial personnel up to basic pay of Rs. 1500/- per month under clause 20(XXII) of the Model Bye-Laws of the Mills and subsequent appointment vide letter dated December 12, 1996 as Token Boys Seasonal Permanent had been considered by the Board of Directors of the Mill in their meeting dated June 20, 1997 and it was found that the Committee constituted by the then Managing Director was not strictly in accordance with Rules 3.3 and 3.4 of the Co-operative Sugar Mills Service Rules, 1991 and the appointment was also not made strictly by the Selection Committee based on seniority-cum-merit as per Rule 3.10 of 1991 Rules. It has further been stated that as per clause 20(XXII) of the Model Bye-Laws of the Mills the power vests in the Board of Directors. It has further been mentioned that the appointment of the petitioner-Ram Kumar, being contrary to statutory Service Rules, 1991, he was being issued a show cause notice. After the petitioner had filed reply to the show cause notice referred to above, the impugned order of reversion Annexure P-4 came into being on August 26, 1997.

While dealing with the reply filed on behalf of the petitioners it has been mentioned that the only contention raised by them that they were appointed by the competent authority could not be accepted as the appointing authority was the Committee. The case of the petitioners for promotion was not placed before the Committee and, therefore, their regularisation of promotion was not justified.

4. Nothing at all has been brought on record, even though replication has been filed to detract from the plea raised in the written statement while opposing the cause of the petitioner. It is, thus proved on the record of the case that the Committee empowered under the Rules had not passed favourable orders in favour of the petitioner when they were regularised or promoted and so much so the case of all eligible candidates was not placed before those who passed orders in favour of the petitioners. The impugned orders of reversion (Annexure P-4) has been passed after giving proper show-cause notice to the petitioner and after considering the reply filed by them. Illegal orders favouring petitioners at the costs of others even otherwise could be revised by the employer after following the proper procedure.

5. We find no merit in this petition and dismiss the same in limine.

