

(2012) 07 P&H CK 0109
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 12480 of 2012 (O and M)

Randhir Singh

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

Punjab Co-operative Societies Act, 1961 — Section 69

Citation : (2012) 07 P&H CK 0109

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : I.S. Saggu, for the Appellant;

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—The petitioner, who was working as Salesman with Barmalipur Cooperative Agricultural Service Society Ltd., Barmalipur, Tehsil and District Ludhiana (for short "the Society") having been dismissed from service on account of proved charges of embezzlement, is before this court. Finding certain irregularities committed by the petitioner in the course of his employment and shortage of kerosene oil, empty gunny bags and bricks found at the time of inspection, the petitioner was placed under suspension vide order dated 22.10.2007. After enquiry, copy of the report was sent to the petitioner, however, he refused to acknowledge the same stating that his name has not been mentioned on the notice. Thereafter, a fresh notice was issued which also he refused to accept. Copy thereof was affixed on the outer door of the house of the petitioner. Finding that the petitioner had nothing to state, he was dismissed from service vide resolution dated 10.6.2008. The petitioner preferred appeal against the order of dismissal, which was accepted vide order dated 18.2.2009 and order of dismissal was set aside. The Society preferred revision before the Joint Registrar, Cooperative Societies, which was accepted vide order dated 31.3.2009 and the order passed in appeal was set aside and that of the dismissal of the petitioner was restored. Thereafter, the petitioner preferred a revision

before the Secretary, Cooperation, Punjab, exercising the powers of Government u/s 69 of the Punjab Cooperative Societies Act, 1961 (for short "the Act"), whereby the order passed by the revisional authority was set aside vide order dated 11.8.2009, being without jurisdiction as the provision under which the revision was maintainable had been deleted, however, liberty was given to the Society to file revision before the Registrar, Cooperative Societies. Thereafter, the revision filed by the Society before the Joint Registrar, Cooperative Societies, was accepted vide order dated 22.3.2012 upholding the order of termination of services of the petitioner. Aggrieved against the order passed against him, the petitioner is before this court.

2. Learned counsel for the petitioner submitted that the charges against the petitioner had not been duly proved. There was some small irregularity in the maintenance of record, which was corrected. He submitted that as per the allegation against the petitioner, there was shortage of about 200 litres of kerosene oil. Hundred litres of kerosene oil was, in fact, lying in the room of the Chowkidar which was in the same compound. It was kept there as kerosene has been put in small cans, which could be removed by any one in case kept in open. As regards empty gunny bags is concerned, the same were disposed of. There being holiday in between, the amount was still to be deposited in the account of the Society. As regards shortage of 600 bricks is concerned, the same had been taken by the President of the Society, as these were lying unused and he was to deposit the cost thereof with the Society. Still considering the fact that the amount involved therein was quite meager, the petitioner had deposited the amount of alleged embezzlement to the tune of Rs. 5,880/-. Even if it is termed as embezzlement, the amount being quite small, the punishment is disproportionate. He further submitted that the provisions of Rule 15 (ii) of the Punjab State Cooperative Service Societies Service Rules, 1997 (for short "the Rules") having been deleted at the relevant time, the revision filed by the Society before the Joint Registrar, Cooperative Societies, was not maintainable. The Secretary, Cooperation, had also gone wrong in granting opportunity to the Society to file a revision afresh while setting aside the order passed by the revisional authority earlier being without jurisdiction.

3. After hearing learned counsel for the petitioner, I do not find any merit in the submissions made. As far as the contention regarding maintainability of the revision filed by the Society is concerned, no doubt at the stage when the Society had filed the revision before the Joint Registrar, Cooperative Societies, in terms of Rule 15(ii) of the Rules, the same was not maintainable. In the revision filed by the petitioner, the order passed in the revision was set aside by the Secretary, Cooperation. However, there is no illegality in the order passed by the Secretary, Cooperation, to the extent that it granted opportunity to the Society to file a revision u/s 69 of the Act. In that revision, the Joint Registrar, Cooperative Societies, considered the matter threadbare and came to the conclusion that as per record, 2,050 litres of kerosene oil was received in the Society for distribution on controlled rates to ration card holders, but only 1,800 litres of

kerosene oil was shown to have been received. When the President of the Society checked the stock on 21.10.2007, it was revealed that 1,485 litres of kerosene oil had been distributed and 400 litres was in stock. Hundred litres kerosene oil was found in the room of the Chowkidar. There was no plausible explanation for keeping 100 litres of kerosene oil in the room of the Chowkidar and further no explanation for the balance.

4. The Society had purchased 1,200 bricks for construction, out of which 600 bricks were used and balance 600 bricks were sold by the petitioner and the amount thereof was not deposited in the Society. The claim sought to be made by the petitioner is that those were taken by the President, however, it is merely a bald statement with no corroboration. Besides that, the petitioner had also sold 263 empty gunny bags valuing Rs. 2,630/- and other small items. The fact that the petitioner had deposited the entire amount embezzled by him on account of shortage of things found in the stock shows that he in a way admitted his guilt. To state that the amount of embezzlement not being substantial, the punishment imposed on the petitioner is disproportionate, is totally misconceived. The petitioner may consider that the embezzlement being for a small amount, he should not have been dismissed, however, this court does not find any merit in that submission. Once it is proved that the petitioner had indulged himself in embezzlement of amount, the quantum thereof is irrelevant. The charges against the petitioner have been fully proved. He does not deserve to be granted any concession. For the reasons mentioned above, the writ petition is dismissed.