

(2001) 03 P&H CK 0064

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 16709 of 1999

The Dhanansum Co-operative
Agricultural Service Society Ltd.,
Dhanansu Dist. Ludhiana

APPELLANT

Vs

Joint Registrar, Cooperative
Societies, Patiala

RESPONDENT

Date of Decision: March 6, 2001

Citation: (2002) 1 RCR(Civil) 292

Hon'ble Judges: Mehtab S. Gill, J

Bench: Single Bench

Advocate: Mr. Satinder Khanna, for the Appellant; Mr. K.S., Sivia, AAG and Mr. B.N. Sehgal, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Mehtab S. Gill, J.

The petitioner has prayed for issuance of a writ in the nature of Certiorari for quashing orders dated 28.8. 1999, Annexure PI and 12.11.1999, Annexure P2.

2. It has been averred by the petitioner that respondent No. 3 Darshan Singh was working as a peon-cum-chowkidar in the petitioner-Society. Many complaints were received against him. Petitioner-Dha-nansu Co-operative Agricultural Service Society Limited, Dhanansu (hereinafter called the Society) conducted an enquiry and found Darshan Singh, respondent No. 3 guilty of remaining absent from duty and also of coming of the society in a drunken condition;/ This enquiry was conducted by who served charge-sheet on Darshan Singhy respondent No, 3. He failed to appear before the Enquiry Committee and the" Enquiry Committee vide its report dated 12.9.1997 held that he was guilty of all the charges including absence from duty and also coming to the Society in a drunken condition. Earlier to this, a show cause notice was given to him. Reply dated 5.9.1997 was filed by him to the show cause notice. The Enquiry Committee heard him on 5.9.1997 and the next date of hearing

was fixed for 12.9.1997. He again did not appear before the Enquiry Committee and thereafter the Enquiry Committee proceeded against him.

3. Another show cause notice was served on Darshan Singh, respondent No. 3 on 20.9. 1997 whereimhe was called upon by the Society to appear before the Managing Committee on 23.9.1997. He did not ap\\-pear before the Managing Committee and the Managing Comrnittee, thus, presumed that he had nothing to say. By accepting the report of the Enquiry Committee, an order of the termination by way of the resolution of the Committee was passed against him. He filed an appeal against this resolution before the Deputy Registrar, Co- operative Societies, Ludhiana. The Deputy Registrar, vide order dated 28.8.1998, copy Annexure PI, held the order of termination of services of respondents No. 3 as illegal and quashed the same. A revision petition was filed against this order but the revision petition was also dismissed vide order dated 12.11.1999, copy Annexure P2.

4. Notice of motion was issued.

5. Respondent No. 3 filed his reply.

6. I have heard arguments on behalf of the counsel for petitioner and the respondents.

7. The counsel for the petitioner has argued that the resolution passed" by" the petitioner Society was in or- der and wilful absence of respondent No. 3 on 8.5.1997 and 30.5.1997 shall tantamount to indiscipline. He has further argued that respondent No. 3 was again absent from 21.7.1997 to 31.7.1997 without taking permission from the President cf the Society. The medical certificate submitted by respondent No. 3 for the earlier period of absence was issued by an R.M.P. Doctor and the Medical Certificate of later period issued by Bhatt Hospital, Kohara was not in order.

8. The counsel for respondent No. 3 has argued that since Deputy Registrar, Co-operative Societies, Ludhiana and Joint Registrar, Co-operative Societies, Patiala have not been impleaded as parties, the impugned orders cannot be quashed. He further argued that they being Government servants, the State of Punjab should have been made a party. He also argued that since Managing Committee was itself the Enquiry Committee, prejudice had been caused to the interests of respondent No. 3.

9. I have gone through the petition. Respondent No. 1 is a Joint Registrar, Co-operative Societies, Patiala and respondents No. 2 is Deputy Registrar, Co-operative Societies, Ludhiana whose orders are under challenge. There is no infirmity in the array of the parties. Respondent No. 3 had absented himself on these occasions, first being on 8.5.1997 and 30.5.1997, second being from 21.7.1997 to 31.7.1997 and for the third time on 8.8.1997. The medical certificates which were submitted by him were not substantiated by any evidence and on the third occasion

on 8.8.1997, he had come in the meeting of the Managing Committee in a drunken condition and misbehaved with the members of the Managing Committee.

10. Another serious charge against respondent No. 3 which has gone unsubstantiated was mis-appropriation of kerosene oil in the month of June, 1997. The only explanation offered by respondent No. 3 was that he had taken verbal orders of the President of the society for taking kerosene oil. The President and other members of the Enquiry Committee clearly stated that they had not authorised respondent No. 3 to take kerosene oil. There were other charges also against respondent No. 3 which find mention in Annexure P3/T. These charges are of serious nature which have gone unrebutted. Going through the orders of the Joint Registrar and the Deputy Registrar, it is clear that they have not touched those charges but have clearly scuttled the issue. The Deputy Registrar and the Revisional Authority have not discussed the medical certificates or about respondent No. 3 coming in a drunken condition and abusing the members of the Managing Committee.

11. Taking up the arguments put forth by the learned counsel for the respondent No. 3 that the Managing Committee was suspended vide order dated 19.9.1997 and it was vide order dated 6.4.1998 that the suspension of the Managing Committee was stayed. He, thus, argued that the services of respondent No. 3 were terminated when the society was under suspension. The petitioner-Society has clearly stated that the suspension orders were not conveyed to it till the time it had passed the resolution of termination of services of respondent No. 3. Going through the written statement, it is clear that it is nowhere mentioned that any of the office-bearers of the Society was served with a notice that the Society was under suspension from 19.9.1997 nor are there any reasons given, in the written statement as to why the management of the Society was under suspension. It is, thus, deemed that the Managing Committee was still working.

In the light of above discussion, impugned orders, Annexures PI and P2 are quashed.

The writ petition is accordingly allowed in the above terms. No order as to costs.

12. Petition allowed.