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WP-743-2010

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&amp;

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 31<sup>st</sup> OF JULY, 2025WRIT PETITION No. 743 of 2010*ARJU IQBAL KHAN S/O MUSTAFA KHAN**Versus**M.P. RAJY SAHAKARI BANK MARYADIT*

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Appearance:

*Petitioner by Shri Ashok K. Sethi - Learned Senior Advocate assisted  
by Shri Harish Joshi - Advocate.*

*Respondent - Madhya Pradesh State Cooperative Bank Limited,  
Bhopal by Shri C.R. Karnik - Advocate.*

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ORDER

*Per. Justice Binod Kumar Dwivedi*

This writ petition under Article 227 of Constitution of India has been preferred by the petitioner for quashment of impugned judgment dated 05.12.2009 (Annexure P/16) passed in First Appeal No.212 of 2004 by the Madhya Pradesh State Cooperative Tribunal, Bhopal and all consequential actions taken in this behalf; and consequently restoration of order dated 03.01.2002 (Annexure P/11) passed in Case No.55-110 of 2001 passed by the Registrar, Cooperative Societies Madhya Pradesh, Bhopal.

2. Brief facts of the case are that the petitioner (who is belonging to Other Backward Class (OBC) Category and born on 15.07.1968) has passed



Higher Secondary School Certificate Examination in the year 1986, obtained Degree in Bachelor of Science (B.Sc.) (Second Division) in the year 1990 (Annexure P/1) and thereafter completed his Master in Arts (M.A.) Geography (Second Division) in the year 1992 (Annexure P/2). He also passed Master of Philosophy (M. Phil.) (Second Division) in Geography in the year 1993 (Annexure P/3).

2.1 The respondent - Madhya Pradesh State Cooperative Bank has issued an advertisement on 24.06.1994 for appointment on the post of Cadre Officer in Grade-III. On the basis of this advertisement, the petitioner applied for appointment and was appointed as Cadre Officer in Grade-III vide order dated 18.03.1996 (Annexure P/5) in the pay scale of Rs.1,300/- to Rs.2,400/- on probation for a period of two years. The petitioner continuously worked on the aforesaid post and thereafter, all of a sudden on 04.04.2001 (Annexure P/6), the respondent issued an explanation letter (show cause notice) to the petitioner that since he was not having the requisite qualification at the time of appointment, therefore, he should submit an explanation in this regard. The petitioner submitted reply on 16.04.2001 (Annexure P/7) to the aforesaid explanation letter, refuting the allegations, that he was not having requisite qualifications for appointment and submitting that he was fully qualified for appointment on the post of Cadre Officer, Grade-III, with specific mention that he has completed five years of service. The petitioner was also given personal hearing on 21.06.2001, wherein he made some additional submissions vide letter dated 21.06.2001 (Annexure P/8). Thereafter, vide order dated 24.07.2001 (Annexure P/9)



appointment of the petitioner was cancelled; where against, the petitioner submitted Revision Petition No.301 of 2001 before the Madhya Pradesh State Cooperative Tribunal, Bhopal (MP) challenging the aforesaid letter dated 04.04.2001, but in the meanwhile, since vide order dated 24.07.2001, his appointment was cancelled, therefore, the said revision petition was dismissed vide order dated 11.09.2001 granting a liberty to challenge the appointment cancellation order dated 24.07.2001 by filing a dispute under Section 55 (2) of the Madhya Pradesh Cooperative Societies Act, 1960 and Madhya Pradesh Rajya Sahakari Bank Maryadit Employees (Terms of Employment and Working Conditions) Rules 1976.

2.2 The petitioner submitted a dispute under Section 55 (2) of Madhya Pradesh State Cooperative Societies Act, 1960 (herein after referred to as the Act of 1960) on 17.09.2001 (Annexure P/10) before the Registrar and Commissioner, Cooperative Societies, Bhopal (MP). After hearing arguments on the main dispute, vide order dated 03.01.2002 (Annexure P/11) the Registrar, Cooperative Societies, Bhopal has allowed the dispute filed by the petitioner and consequently quashed termination order dated 24.07.2001 (Annexure P/9).

2.3 The respondent did not challenge the aforesaid order dated 03.01.2002 and on the strength of the aforesaid order, the petitioner was permitted to join the services on 07.01.2002 vide order dated 10.01.2002 (Annexure P/12). Thereafter, as per the decision taken by the Cadre Committee, the petitioner was confirmed on the post of Cadre Officer, Grade-III with effect from 27.03.1998 on completion of two years probation



period vide order dated 21.01.2002 (Annexure P/13).

2.4 After a period of two years and seven months, on 19.08.2004 the respondent submitted a first appeal under Section 78 of the Act of 1960 (Annexure P/14) before the Madhya Pradesh State Cooperative Tribunal, Bhopal challenging order dated 03.01.2002 (Annexure P/11), which was registered as First Appeal No.212 of 2004. By condoning the delay, the appeal was admitted. The learned Cooperative Tribunal allowed the aforesaid appeal filed by the respondent vide judgment dated 05.12.2009 (Annexure P/16) and pursuant to this order, the respondent issued order dated 08.12.2009 (Annexure P/17) terminating the services of the petitioner.

3. Shri Ashok K. Sethi, learned Senior Counsel appearing for the petitioner submits that the impugned order passed by Madhya Pradesh State Cooperative Tribunal, Bhopal is bad in law, as the finding recorded by the Tribunal, that the petitioner was not having requisite qualification for appointment on the post of Cadre Officer, Grade-III on the date of advertisement, is perverse.

3.1 Learned Senior Counsel further submits that Rules which were changed after publication of the advertisement for amending the requisite qualification for the post of Cadre Officer, Grade-III will not apply to the case of the petitioner. For this, learned Senior Counsel has placed reliance upon a judgment (paras 10 and 11) delivered by the Apex Court in case of Anil Kishore Pandit v. The State of Bihar & others reported in 2024 INSC 188, wherein it has been held that “qualifications prescribed in the advertisement cannot be changed midstream. Any subsequent amendment to



the advertisement during the course of selection process unless retrospective, cannot be a ground to disqualify a candidate from the zone of consideration.”

3.2 Learned Senior Counsel further submits that the learned Cooperative Tribunal has considered 5 (five) documents submitted by the respondent before the Tribunal along with list of documents and on this basis, he has proceeded to allow the appeal filed by the respondent, which could not have been done, as these documents were not forming part of the record, when the dispute case decided by the Registrar, Cooperative Societies, Bhopal. No opportunity of rebuttal was given to the petitioner and in such circumstances, the impugned judgment based on these five documents submitted by the respondent on belated stage has vitiated impugned order dated 05.12.2009 (Annexure P/16), which deserves to be quashed.

3.3 Learned Senior Counsel further submits that the Tribunal has committed an error apparent on the face of record, that after order dated 03.01.2002 (Annexure P/11) passed by the Registrar, Cooperative Societies, Bhopal, the respondent has not only reinstated the petitioner by accepting the judgment without protest, but has also taken a decision in Cadre Committee to confirm him with effect from 27.03.1998 vide order dated 21.01.2002 (Annexure P/13), therefore, principle of estoppel, waiver and acquiescence applies in the present case, as held in catena of judgments delivered by the Apex Court.

3.4 It is also submitted that a specific application was also submitted on 25.10.2007 (Annexure P/14-A) by the petitioner before the Cooperative



Tribunal with specific written submission in this behalf, but in spite of that, the same was not considered by the Tribunal.

3.5 Learned counsel further submits that the learned Cooperative Tribunal has failed to take into consideration that if there is a contradiction of minimum qualifications in statutory service rules as well as in the advertisement, then the minimum qualifications shown in the statutory service rules will prevail and will have overriding effect over the advertisement and in the instant case, when the statutory service rules do not provide any such minimum qualifications, which have been specified in the advertisement, then in such circumstances, that cannot be said to be the basis for holding that there is any irregular or illegal appointment of the petitioner and that could not have been cancelled. On these premises, learned Senior Counsel submits that impugned order dated 05.12.2009 (Annexure P/16) passed by the Cooperative Tribunal be set aside and order dated 03.01.2002 (Annexure P/11) passed by the Registrar, Cooperative Societies, Bhopal be restored.

3.6 In support of his submissions, learned Senior Counsel appearing for the petitioner has placed on the following judgments: -

(i) Anil Kishore Pandit v. The State of Bihar & others reported in 2024 INSC 188;

(ii) Virendra Jatav v. State of Madhya Pradesh & others reported in 2020 (4) MPLJ 601;

(iii) K.P. Govil, Assistant Professor, Agriculture College, Gwalior v. Jawaharlal Nehru Krishi Vishwavidyalaya, Jabalpur and another reported in



1987 MPLJ 396.

4. Shri C.R. Karnik, learned counsel for the respondent submits that the order passed by the Registrar, Cooperative Societies, Bhopal is a collusive order, which could not be sustained, since the petitioner was not having requisite qualifications even as per the initial advertisement, therefore, he was not entitled for appointment and after due consideration, his appointment has been cancelled. The order passed by the Registrar, Cooperative Societies, Bhopal has rightly been set aside by impugned order dated 05.12.2009 (Annexure P/16) passed by the Cooperative Tribunal, which cannot be found fault with.

4.1 Learned counsel further submits that this petition is not maintainable on the ground of jurisdiction before this Hon'ble Court. He further submits that on termination of services of the petitioner, he was paid legal dues i.e. three months' salary, as per Rule 62 of the Service Rules and the said amount has been received by the petitioner; and once the termination order has already been executed, no relief can be granted to him. The petition is devoid of any substance, therefore, liable to be dismissed.

4.2 In support of his contentions, learned counsel for the respondent has placed reliance on the following judgment dated 29.08.2023 delivered by the High Court of Delhi in case of J. Balaji v. The Hindu New Delhi & another, LPA No.640 of 2022 and CM Application No.47792 of 2022 .

5. Heard and considered rival submissions raised at Bar and perused the record.

6. As far as the contention raised on behalf of the respondent with



regard to jurisdiction of this Court to entertain the petition is concerned, it is not tenable, as at the time of termination of his services, he was posted at Jhabua and after termination, he has settled in District Khargone. Both of these places fall under the local jurisdiction of this Bench. Even otherwise, in written reply filed on behalf of the respondent, no specific ground questioning the local jurisdiction of this Court has been raised.

7. In case of Virendra Jatav v. State of Madhya Pradesh & others reported in 2020 (4) MPLJ 601, this Court has held that the Court under whose jurisdiction the order declaring the petitioner as unsuitable was issued as well as the place where such consequences have fallen on the petitioner, the Court having local jurisdiction over the places has jurisdiction to entertain the petition. Similar view has been taken by the Full Bench of this Court in case of K.P. Govil, Assistant Professor, Agriculture College, Gwalior v. Jawaharlal Nehru Krishi Vishwavidyalaya, Jabalpur and another reported in 1987 MPLJ 396. Even otherwise, near about fifteen years after filing of this petition, this objection regarding lack of local jurisdiction to entertain the petition cannot be entertained.

8. The judgment relied upon by learned counsel for the respondent in case of J. Balaji v. The Hindu New Delhi & another (supra) does not come to the rescue of the respondent in the obtaining facts and circumstances of the instant case.

9. In the light of aforesaid discussion, the objection raised on behalf of the respondent – Bank with regard to local jurisdiction is rejected.

10. It is not in dispute that the advertisement for the post of Cadre





Officer, Grade-III was published on 24.06.1994. The qualification for the said post as was existing on the date of advertisement was "Higher Second Class Bachelor's Degree or a Second Class Master's Degree in Economics or Commerce or Science or Agriculture of any University"; and subsequently amendment was made prescribing minimum qualification as "First Class Bachelor's Degree or a Second Class Master's Degree in Economics or Commerce or Science or Agriculture of any University".

11. It is not in dispute that on the date of advertisement, the petitioner was having minimum qualification, as mentioned herein above for the post of Cadre Officer, Grade-III, which is apparent from the mark sheet of B.Sc. Final, Three Year Degree Course issued by Vikram University, Ujjain vide Annexure P/1, wherein it has been mentioned that the candidate has passed B.Sc. in Second Class. Thus, it cannot be said that the petitioner was not having minimum requisite qualification for the post for which he applied and was subsequently appointed.

12. It is well settled law as held in case of Anil Kishore Pandit v. The State of Bihar & others (supra) that qualification prescribed in advertisement cannot be changed midstream and subsequent amendment cannot be a ground to disqualify a candidate from the consideration zone. Therefore, the finding recorded in the impugned judgment passed by the Cooperative Tribunal that the petitioner was not having minimum qualification, as prescribed for the post, is perverse. No other allegation has been levelled against the petitioner nor any charge sheet or Departmental Enquiry (DE) has been held against him. Therefore, his termination order dated 03.01.2002



(Annexure P/11) cannot be sustained.

13. In the light of aforesaid discussion, we are of the considered view that the learned Cooperative Tribunal has failed to appreciate the provisions of law and legal position in right perspective and thereby committed error apparent on the face of record in setting aside order dated 03.01.2002 (Annexure P/11) passed by the Registrar, Cooperative Societies, Bhopal in Case No.55-110 of 2001.

14. Resultantly, this petition succeeds and is hereby **allowed**, setting aside order dated 05.12.2009 (Annexure P/16) passed by Division Bench of Madhya Pradesh Cooperative Tribunal, Bhopal and by restoring order dated 03.01.2002 (Annexure P/11) passed by the Registrar, Cooperative Societies, Bhopal in Case No.55-110 of 2001. It is directed that the petitioner be reinstated on the post from which he was terminated with full back wages and all ancillary benefits within a period of 60 (sixty) days from the date of filing of a certified copy of this order before the respondent.

(VIVEK RUSIA)  
JUDGE

(BINOD KUMAR DWIVEDI)  
JUDGE

rcp