





service on 31.10.2012 on attaining the age of superannuation. The respondent No.2 had issued various instructions, while exercising the powers vested in him by virtue of the provisions of the Punjab Cooperative Societies Act, 1961 and the Punjab Cooperative Societies Rules, 1963. He had issued instructions dated 04.10.2012, which provided for the transfer of employees from one Cooperative Society to another Cooperative Society on certain conditions prescribed in the instructions. The petitioner was working as Assistant Registrar at Malout and the instructions dated 04.10.2012 were received in the office of Assistant Registrar on 16.11.2012 i.e. after the retirement of the petitioner on 31.10.2012 and the petitioner had no knowledge of the instruction dated 04.10.2012 till his retirement. Learned counsel further submits that the Malwala Multipurpose Cooperative Agriculture Service Society passed a Resolution dated 20.10.2012 for transfer of its salesman to Malout Cooperative Marketing-cum-Processing Society Limited, Malout, which had also expressed its desire to take the said salesman, vide Resolution dated 22.10.2012. These resolutions were recommended by the concerned Inspector, Cooperative Societies on the basis of the instructions dated 27.11.1991 and the petitioner also granted approval for the said transfer on 31.10.2012. Learned counsel submits that a complaint was made and the enquiry was conducted by the Deputy Registrar, Cooperative Societies and a detailed report dated 28.04.2015 (Annexure P-3) was prepared, which had completely exonerated the petitioner. Regarding the appointment and approval of salesman, a charge sheet dated 26.07.2016 was issued to the petitioner under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume 2 and Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules 1970. As



per the articles of charge, the petitioner was negligent in performance of his duties by going beyond jurisdiction and he was directed to supply a reply of the charge sheet, within 21 days. The petitioner requested the respondents to supply certain documents, so that the petitioner may prepare his reply, but the said documents were never supplied to him and he had to submit a reply, without getting the required documents from the respondents. The reply filed by the petitioner to the charge sheet was not considered properly and respondent No.1 vide his order dated 24.10.2016, appointed Mr. M.S.Rattu, Additional District and Sessions Judge (Retd.) as Enquiry Officer and the Establishment Officer of the office was appointed as the Presenting Officer against the petitioner. The Enquiry Officer also conducted the inquiry and he also agreed with the preliminary enquiry report, submitted by Deputy Registrar, Mukatsar and held that the charges leveled against the petitioner were not proved. Even the Enquiry Officer prepared a detailed report dated 17.04.2017 (Annexure P-6) and he submitted his report to the Punishing Authority. Even though, no charge was proved against the petitioner, as the enquiry report prepared by the Enquiry Officer, who himself was an Additional District and Sessions Judge (Retd.). Still respondent No.1 gave his dissenting note on the enquiry report by stating that in violation of rules. In case, he did not agree with the findings of the Enquiry Officer, he should have got a re-inquiry conducted. On this, the petitioner also submitted his reply and clearly stated that no charge had been proved against the present petitioner. Ultimately, vide the impugned order dated 09.08.2019 (Annexure P-10), respondent No.1 decided to impose a cut of 15% in the pension of the petitioner for 12 years provisionally. Learned counsel for



the petitioner further submits that the respondents had completely over looked the provisions of Rule 2.2(b) of Punjab Civil Services Rules, Vol.2, while passing the impugned order. Challenging the said order, the petitioner has filed the present petition before this Court.

3. On the other hand, learned State counsel has vehemently argued that it was not a simple case of approval of transfer and the Society had passed a Resolution on 20.10.2012 for transferring its salesman to another Society and another Society had simultaneously passed Resolution on 22.10.2012 itself showing its intention to take him as a salesman. Thereafter, the Inspector, Cooperative Societies also recommended the same and the petitioner on the last date of his service i.e. 31.10.2012 granted the approval and also approved to give pay-scales for the reasons best known to him. Thus, the petition deserves to be dismissed by this Court.

4. I have heard learned counsel for the parties and perused the record.

5. A Division Bench of this Court has held in LPA No. 340 of 2017 decided on 08.02.2023 titled as ***“Gurcharan Singh Vs. State of Punjab and others”*** that where there is no loss caused to the State Exchequer, imposing the punishment of cut in pension is totally disproportionate to the charges alleged and proved. The relevant findings recorded by the Division Bench have been held as under:-

*“Counsel for the appellant, inter alia contended that as per Rule 2.2 of the Rules, recovery from pension can be made as a punitive measure in order to make good loss caused to the Government as a result of negligence or fraud on the part of the person concerned while he was in service. Admittedly, the enquiry officer, who conducted the enquiry against the appellant in the*



*instant case categorically recorded that no financial loss has been caused to the Municipal Council in spite of the deviation in the procedure for execution of the works done under his supervision by the Municipal Council. The enquiry officer even noted that the appellant had issued certain audit requisitions in audit report of 2009-2010 protesting against the procedure of execution of work through quotations instead of inviting tenders. But inspite of the same, the officials of the Municipal Council ignored his protest and continued to get the works executed by inviting quotations instead of calling for tenders. Since the work pertained to manholes and was claimed to be of urgent nature by Executive officer of the Municipal Council, who claimed to have been authorized through Government letter dt.24.08.2008 to spend 20,000/- on immediate expenses if there is an urgency or immediate need to get the work done, and the appellant had protested, he cannot be prima facie accused of being negligent merely because he did not take further instructions from the Head Office as was held by the enquiry officer. Counsel contended that even respondent No.1, who passed the impugned order, gave no categorical finding that there was loss caused to the Municipal Council though he doubted the correctness of the finding of the enquiry officer that there was only procedural lapses and no financial loss.*

*We find force in the above contentions.*

*In the absence of any finding against the appellant that he was responsible for causing financial loss to the Municipal Council either by the enquiry officer or by respondent No.1, it was not open to the learned Single Judge to give a finding that financial loss was caused to the Municipal Council on the basis of assumptions and presumptions without any material on record.*

*Only if there is a finding of financial loss caused to Government by the enquiry office or respondent no.1. Rule 2.2(b) of the Rules can*



*be invoked. It permits recovery of pension after it has been sanctioned as a punitive measure in order to make good loss to the Government on account of negligence on the part of an employee.*

*In the absence of any finding of loss caused to the Government either by the enquiry officer or by respondent No. 1, no recovery from pension could have been ordered as a punitive measure by the respondents.”*

6. In the present case also, it is apparent that the preliminary enquiry report had also completely exonerated the present petitioner. Thereafter, Mr. M.S.Rattu, Additional District and Sessions Judge (Retd.) was appointed as Enquiry Officer and again a detailed report was prepared and the petitioner was not found at fault. However, respondent No.1 disagreed with the findings recorded by the Enquiry Officers and passed the Impugned order dated 09.08.2019 (Annexure P-10) against the present petitioner. However, it is apparent from the provisions contained in Rule 2.2 (b) of Punjab Civil Services Rules, Vol.2 that punishment of cut of pension can only be imposed against the petitioner or any other employee, if any financial loss has been caused to the respondents by the petitioner. However, in the present case, there is no such case that the petitioner had caused any pecuniary loss to the Respondent-Department.

7. Thus, keeping in view the settled principles of law, passed by the Division Bench of this Court in ***LPA No. 340 of 2017 decided on 08.02.2023*** titled as ***“Gurcharan Singh Vs. State of Punjab and others”*** and the peculiar facts of the present case, the impugned order is liable to be set aside by this Court.



8. Thus, the present petition is allowed in the above terms. If, in case any amount has been recovered from the pension of the petitioner so far, the same may be refunded back to the petitioner along with interest at the rate of 6% per annum, within a period of eight weeks from the date of receipt of certified copy of this order.

**28.08.2025**  
hemlata

**(N.S.SHEKHAWAT)**  
**JUDGE**

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No