

on the 'C' list and to be promoted as Head Constable from the date they had been so promoted as on that date the private respondents were yet undergoing the cadre course/lower school course and they, therefore, in terms of rule were not even eligible to be considered for promotion to the post of Head Constable as the successful completion of the lower school course was *sine qua non* for promotion to the next higher post of Head Constable. Once the Constables who were eligible for further promotion and stood promoted to the next higher post, the Constables who were their senior as Constables having also passed the lower school course after their so called junior had been promoted to the post of Head Constable, cannot be legally permitted to flaunt their seniority as Constables and seek promotion as Head Constable in point of time prior to those who although were junior to such constables but were alone eligible to be promoted on the date they were so promoted to the post of Head Constables.

(35) For the reasons aforementioned, we allow all the four appeals and set aside the judgment of the learned single Judge and also dismiss the petitions filed by the private respondents herein in L.P.A. No. 291 of 1984 and L.P.A. No. 368 of 1984 and respondents Nos. 1 to 21 in L.P.A. No. 370 of 1984 and 1 to 42 in L.P.A. No. 371 of 1984. No costs.

N. K. S.

FULL BENCH

Before P. C. Jain, C.J., S. P. Goyal & I. S. Tiwana, JJ.

Bhupinder Singh and others,—Petitioners.

versus

The State of Punjab and others,—Respondents.

Civil Writ Petition No. 1490 of 1984.

October 25, 1985.

Punjab Cooperative Societies Act (XXV of 1961)—Section 84-A—Punjab Cooperative Societies Rules, 1963—Rules 80-B and 80-C Punjab State Supplies and Marketing Cooperative Services (Common Cadre) Rules, 1967—Rules, 1.4, 1.6 and 2.10—Board of Directors of Markfed resolving to abolish superfluous posts—Services of the employees holding such posts—Whether could be terminated only

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by the Administrative Committee—Administrative Committee delegating its powers to the Chairman—Chairman—Whether could further delegate those powers—Services of employees of a Cooperative Society terminated in violation of statutory Rules—Such employees—Whether could invoke the jurisdiction of the High Court under Article 226.

Held, that under Rule 1.4 of the Punjab State Supply of Marketing Co-operative Services (Common Cadre) Rules, 1967, the Board of Directors was competent to take a decision regarding the abolition of the posts and such a decision was taken by the Board and it also resolved that cases of those employees whose services had to be retrenched, may be brought before the Board. Thereafter, the Board of Directors in its meeting again approved the decision taken by it earlier. Rule 1.6(a) makes it clear that the Rules shall be administered by an Administrative Committee constituted by the Board and that the Administrative Committee or under its authority, the Managing Director shall be competent to issue such instructions or directions as may be considered necessary from time to time to give effect to or carry out the provisions of the Rules. Under Rule 2.1 the authority to make appointments to various posts except that of the Managing Director vests in the Administrative Committee; provided that in the case of junior Assistants and Salesmen the Board of Directors of any society/societies shall be competent to make appointments locally as a stop-gap arrangement and may recommend the cases of such appointments to the Administrative Committee for its approval. The right to terminate the services of an employee is given to the Administrative Committee under Rule 2.10. Thus, it is quite evident that it is the Administrative Committee in which the overall authority vests to administer the Cadre Rules. Where the Administrative Committee did not at any time take a decision to terminate the services of the employees as a result of the decision of the Board abolishing the superfluous posts nor the Administrative Committee authorised the Managing Director to issue the termination order, the Managing Director could not of his own authority issue the orders of termination. (Para 14).

Held, that according to Rule 80-B of the Punjab Co-operative Societies Rules, 1963, the Managing Director of a Co-operative Society is its principal Executive Officer and all the employees exercise their powers and perform their duties under his superintendence and control. The Managing Director exercises his powers and performs his duties under the overall supervision and control of the Committee. But when a Chairman has been appointed, then all the powers of the principal Executive Officer (i. e. the Managing Director) vest in the Chairman and all other employees exercise their powers and perform their duties under the superintendence and control of the Chairman. Under Rule 80-C, the Chairman in this limited context is the principal Executive Officer in the same

sense as the Managing Director would have been, had the Government not appointed a Chairman to function as Principal Executive Officer. Under Rule 80-C, the provision that the Chairman with the prior approval of the Registrar may delegate any of his powers to any employee of the Society, appears to apply only to the original and inherent powers of the principal Executive Officer, as indicated in the bye-laws and do not extend to the power that may be delegated specifically by the Administrative Committee. Thus, the Chairman to whom the power had been delegated by the Administrative Committee acted illegally and without jurisdiction in further delegating the powers to the Managing Director. Such delegation by the Chairman did not vest the Managing Director with any authority, nor could he on the basis of such delegation, issue the order of retrenchment. Thus, it is held that the order resulting in the retrenchment of the services of the employee is wholly illegal and void as the Administrative Committee which had the jurisdiction to pass such an order, did not do so and the Managing Director, who issued the order was not validly authorised to pass such an order. (Para 18).

Held, that where the services of the employees had been terminated clearly in violation of statutory rules, they can certainly enforce their right which had been affected adversely by invoking the jurisdiction of the High Court under Article 226 of the Constitution. (Para 21).

Subhash Doomra vs. The State of Punjab and others C.W.P. No. 5661 of 1983 decided on 2nd December, 1983.

—*O verruled.*

Petition Under Articles 226 and 227 of the Constitution of India praying that :—

- (i) *An appropriate Writ Order or Direction quashing the impugned orders, dated 22nd October, 1983 terminating the services of the petitioners, Annexures P/4 to P/32 order dismissing the application of the petitioners dated 25th November, 1983, annexure P/3 and the proceedings of the meeting of the Board of Directors of Markfed, dated 27th June, 1983, Annexure P/35 be issued;*
- (ii) *It is further prayed that the respondents be directed to reinstate the petitioners into service with all back wages and other consequential benefits;*
- (iii) *complete records of the case be summoned;*
- (iv) *costs of the petition be also awarded;*
- (v) *condition regarding filing of certified copies of the annexures be dispensed with;*

Kuldip Singh, Senior Advocate with G. C. Gupta, Advocate,—*for the Petitioner.*

N. K. Sodhi, Advocate,—with Mr. S. K. Hirajee, Advocate,—*for respondents No. 4 to 7.*

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JUDGMENT

Prem Chand Jain, Chief Justice.

(1) This judgement of ours would dispose of this and the connected petitions C.W.P. Nos. 3210 and 316 of 1984, as common question of law and fact arises in all these petitions. In order to appreciate the controversy, certain salient features of this petition may be noticed.

(2) The petitioners were employed by the Punjab State Co-operative Supply and Marketing Federation Ltd., Chandigarh (hereinafter referred to as the 'Markfed'). The Markfed is a Society registered under the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as the Act). Petitioners Nos. 1 to 18 were appointed as Field Assistants in the years 1980-81. Petitioners Nos. 19 to 28 were appointed as Field Assistants (preservation) in the years 1980, 1981 and 1982 respectively. Petitioner No. 29 was appointed as Field Officer (Preservation) in the year 1980. The conditions of service of the petitioners are governed by the statutory rules framed under section 84-A of the Act and called the Punjab State Supply and Marketing Co-operative Services (Common Cadre) Rules 1967, (hereinafter referred to as the 'Rules'). These rules were amended by the Registrar on 22nd August, 1973, 22nd October, 1973, 3rd August, 1976, 16th August, 1976 and 29th September, 1976.

(3) It is averred in the petition that in the year 1981, an industrial dispute arose between the workman of the Markfed and the Markfed, which was referred by the Chief Commissioner, Chandigarh, for adjudication to the Presiding Officer, Labour Court, Union Territory, Chandigarh, as Industrial Reference No. 22 of 27th March, 1981. In that reference, Markfed raised an objection that as the employees of the Markfed were governed by the Common Cadre Rules, the employees are required to go to the Registrar, Co-operative Societies and challenge the order there and that they could not invoke the jurisdiction of the Labour Court. This objection of the Markfed was upheld by the Labour Court. It appears that this fact has been stated by the petitioners to overcome the objection that the petitioner were entitled to file this petition and that against the impugned orders, they were not required to go to the Labour Court.

(4) It is further averred that,—vide order dated 22nd October, 1983, the Managing Director of the Markfed terminated the services of the petitioners, on the ground that the posts of the

petitioners along with various other posts had been abolished. Copies of the orders received by the petitioners are attached to this petition as Annexure P/4 to P/32, Feeling aggrieved, the petitioners challenged the termination orders by filing four applications under Rule 1.9 read with Rule 2.17 of the Common Cadre Rules before the Registrar. These applications were marked by the Registrar to the Additional Registrar (Administration) for disposal, who after affording an opportunity of hearing dismissed the application,—vide order dated 25th November, 1983, copy Annexure P/33 to the petition.

(5) It is further stated that some other colleagues of the petitioners, namely, Vijay Kumar Sagar, etc. had also filed similar application before the Registrar, who had marked the same for disposal to the Additional Registrar (Industrial) and that those applications were allowed by Shri P. N. Behl,—vide order dated 14th December, 1983 and the termination orders were quashed. Copy of the order of Shri P. N. Behl is attached with the petition as Annexure P/34. In this manner two contradictory orders of the two Additional Registrars in similar circumstances and on similar facts, have come into being. It may be stated at this stage that against the order of Shri P. N. Behl, the Markfed had filed C.W.P. No. 254 of 1984, which was dismissed by a Division Bench of this Court on 29th May, 1984. The petitioners through this petition have challenged the legality of the orders of termination (Copies Annexure P/4 to P/32) the order of the Additional Registrar, Co-operative Societies, dated 25th November, 1983, copy Annexure P/33 and the proceedings of the meeting of the Board of Directors of Markfed, dated 27th June, 1983, copy Annexure P/35.

Some of the grounds set out in the petition for challenging the legality may be noticed:—

- (a) That the Appointing Authority and also the Authority competent to terminate the services of the petitions is the Administrative Committee. Even the seniority of the employees governed by the Rules is to be determined by the Administrative Committee. In the case of the petitioners, there is no order of the Administrative Committee either abolishing the post or terminating the services of the petitioners.
- (b) That the Managing Director of the Markfed, who had issued the orders of termination, had no authority or jurisdiction to issue such orders;

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- (c) That the Administrative Committee had delegated certain administrative powers to the Chairman alone, with the result that the Chairman could alone exercise those delegated powers of the Administrative Committee itself and could not delegate these powers to any body also.
- (d) That the tenure of the Board of Directors had expired on 27th May, 1983, that after the expiry of the tenure, the Administrator or the Board of Directors, the Board or any Sub Committee or delegate of the Board became **functus Officio**, that the tenure of the Managing Committee came to an end on 23rd May, 1980, when the result of the Board of Directors was declared, that the powers delegated to Shri Harcharan Singh Hero by the Administrative Committee on 19th January, 1983, came to an end on 22nd May, 1983, that Shri Harcharan Singh Hero could not delegate the same powers to the Managing Director on 4th October, 1983 and that after 22nd May, 1983 Shri Harcharan Singh Hero could not exercise these powers when the tenure of the Board had come to an end.
- (e) That the tenure of Shri Harcharan Singh Hero came to an end in any case on 10th June, 1983, and he could not preside over the meeting of the Board of Directors held on 22nd June, 1983, with the result that the meeting of the Board of Directors dated 22nd June, 1983, was illegal, void and inoperative; and
- (f) That the action of terminating the services of the petitioners is **mala fide**, in as much as in October, 1983, their services were terminated and immediately thereafter in November, 1983, 49 new persons were appointed to do the same type of work as the petitioners were doing;
- (6) The petition came up for motion hearing on 30th March, 1984, when notice of motion was issued to the respondents. In obedience to that notice, written statement was filed on behalf of respondents Nos. 4 to 7, in which besides taking preliminary objections, the material allegations made in the petition have been controverted. The preliminary objections, which have been raised may be summarized thus:—
- (i) That an alternate remedy of raising an industrial dispute under the provisions of the Industrial Disputes Act, is available to the petitioners;

(ii) That no writ is maintainable against the respondent No. 4, which is a Co-operative Society registered under the Co-operative Societies Act.

(iii) That against the impugned order, Annexure P/33, dated 25th November, 1983, a retrenched employee had filed a petition—C.W.P. No. 5661 of 1983, which was dismissed **in limine** on 2nd December, 1983, and

(iv) That a joint petition on behalf of all the petitioners would not be maintainable.

(7) On merits the impugned orders are sought to be supported by raising pleas that they have been passed in accordance with law and that they do not suffer from an infirmity.

(8) The matter was heard by the Motion Bench. It appears that finding some conflict between the decisions of the two Division Benches in C.W.P. No. 254 of 1984 and 5661 of 1983, the matter was admitted to hearing by a Full Bench. That is how we are seized of the matter.

(9) Before considering the submissions made by Mr. Kuldip Singh, Senior Advocate, learned counsel for the petitioners, it will be necessary to make reference to the relevant rules from the Punjab State Supply and Marketing Co-operative Services (Common Cadre) Rules, 1967 (hereinafter referred to as the Rules).

(10) Rule 1.4 provides that the various categories of the service and the pay scales of each of the categories of posts shall be as specified in Annexure 1, provided that the Board of Directors of the Punjab State Co-operative Supply and Marketing Federation shall be competent to add or delete any category of service from Annexure I, or enhance or reduce the strength of any such category of service or revise the pay scale of pay. Rule 1.6 (a) makes a provision re. the authority which is to implement these rules and is in the following terms:—

“1.5 (a) These rules shall be administered by an Administrative Committee constituted by the Board (Referred to as ‘Administrative Committee’ here in after in these rules consisting of the president of the Punjab State Co-operative Supply and Marketing “Federation Limited,

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as the Chairman, two members from amongst the elected Directors of the Board of Directors of the said Federation and the Registrar or his nominee. The Administrative Committee or under its authority, that Managing Directors shall be competent to issue such instructions or directions as may be considered necessary from time to time, to give effect to or to carry out the provisions of these rules."

Sub-clause (d) of Rule 1.6 make a provision for the delegation of power of the Administrative Committee and reads thus:—

"1.6 (d) The Administrative Committee shall be competent to delegate any of its powers to the Chief Executive Officer of the Federation by whatever designation he may be called, subject to any control that the Administrative Committee may choose to retain. The powers already being exercised by the said Officer at the time of the commencement of these rules under delegation of the staff Sub-Committee of the Board of Director of the Federation, shall be deemed to have been delegated to him under this rule."

Rule 2.1 provides that the authority to make appointment to various posts of the service other than that of the Managing Director, vests in the Administrative Committee. Rule 2.6 talks of the probationary period and also provides that the Administrative Committee may at its discretion extend the period of probation. Under Rule 2.7 the Administrative Committee is empowered to decide the Seniority of employees. Rule 2.10 make a provision for termination of service and is in the following terms:—

"2.10 The services of any employee may be terminated by the Administrative Committee by giving him one month's notice or pay in lieu thereof; provided that:—

- (a) No employee shall be entitled to the notice or pay in lieu thereof if he is removed from service on account of misconduct established on record.
- (b) No employee shall be entitled to one month's notice or notice pay unless and until he has been in the service continuously for a period of three months."

Rule 2.15 specifies the authority empowered to impose penalties.

(11) The main contention raised before us by Mr. Kuldip Singh, Senior Advocate, learned counsel for the petitioners was that it was the Administrative Committee alone which could pass an order of termination of the services of the petitioners; that mere resolution of the Board dated 21st January, 1983, taking a decision to abolish certain posts would not by itself be sufficient to vest the Managing director to pass an order of retrenchment against the petitioners; that at no stage the Administrative Committee ever took a decision to retrench the services of the petitioners and that the Managing Director was never delegated power by the Administrative Committee to pass the impugned orders of retrenchment.

(12) On the other hand, Mr. N. K. Sodhi, learned counsel for the respondents, submitted that the decision for abolition of posts having been taken by the Board, the Managing Director could validly pass the orders of retrenchment, as under Rule 1.4 of the Rules the power to termination the services of an employee would certainly vest in the Board when a decision to abolish posts can only be taken by the Board.

(13) Thus the question that arises for consideration is whether the Board which had the jurisdiction to abolish the posts, could also taken a decision and terminate the services of the employees, when under the Rules it is the Administrative Committee which has the power to administer the Rules, or in other words could the Managing Director pass the order of termination on the basis of the resolution of the Board of Directors.

(14) After giving my thoughtful consideration to the entire matter, I find considerable force in the contentions of the learned counsel for the petitioners. There is no dispute that under Rule 1.4, the Board was competent to take a decision regarding the abolition of the posts and that such a decision was taken by the Board in its meeting held on 21st January, 1983, when it was also resolved that cases of those employees whose services have to be retrenched, may be brought before the Board of Directors. Thereafter, on 22nd June, 1983, the Board of Directors in its meeting again approved the decision taken by the Board of Directors earlier on 21st January, 1983. It may be observed at this stage that there is a contest between the parties that the meeting held on 22nd June, 1983, was not a validly convened meeting, as the term of the Board had expired in May, 1983; but for the time being it is not necessary to advert to this aspect of the matter. The fact remains that as on 21st January, 1983, a decision was taken by the Board of Directors to abolish certain superfluous posts of Markfed. Now what has to be

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seen is whether the order of termination was validly passed by the Managing Director. The cadre Rules have been reproduced in the earlier part of the judgment and I propose to analyse some of the rules again. Under Rule 1.6 (a) it is stated that the Rules shall be administered by an Administrative Committee constituted by the Board and that the Administrative Committee or under its authority, the Managing Director shall be competent to issue such instructions or the directions as may be considered necessary from time to time to give effect to or carry out the provisions of the Rules. Even Bye-law 25(b) of the Bye-laws of the Markfed provides that it is the Administrative Committee which is competent to administer the common Cadre Rules and to issue such instructions or directions as may be considered necessary from time to time to give effect to or carry out the provision of the Cadre Rules. Under Rule 2.1 the Authority to make appointments to various posts except that of the Managing Director vests in the Administrative Committee; provided that in case junior Assistants and Salesmen the Board of Directors of any Society/Societies shall be competent to make appointments locally as a stop-gap arrangement and may recommend the cases of such appointments to the Administrative Committee for its approval. The Administrative Committee shall have discretion to approve or disapprove the proposal. The right to terminate the services of an employee is given to the Administrative Committee under Rule 2.10. Thus, it is quite evident that it is the Administrative Committee in which the overall authority vests to administer the Cadre Rules. In the instant case there is no dispute as it was very fairly conceded by Mr. N. K. Sodhi, learned counsel for the respondents, that the Administrative Committee did not at any time take a decision to terminate the services of the petitioners or other employees as a result of the decision of the Board abolishing the superfluous posts, nor the Administrative Committee authorised the Managing Director to issue the impugned order, with the result that the Managing Director could not of his own authority issue the impugned retrenchment order. But it appears as this fact has been noticed in the order of Shri P. N. Bdehl Additional Registrar (Industrial), copy of which has been attached with the petition as Annexure P/34, that Shri H. S. Hero, Chairman, Markfed, had passed an order on 4th October, 1983, under which power to act as appointing and punishing authority was delegated. That order of the Chairman reads as under:—

“In pursuance of Rule 80(c) of the Punjab Cooperative Societies Rules, 1983, and the terms of approval of the

Registrar Cooperative Societies Punjab, conveyed,—vide his letter No. Mkg/MAI/24117, dated 4th October, 1983. I Harcharn Singh Hero, Chairman, Markfed hereby redelegate the undermentioned powers delegated to me by the Administrative Committee by its resolution No. 2 dated 19th January, 1983, being Principal Executive Officer of the Markfed to the Managing Director, Markfed.

1. To act as appointing and punishing authority upto the level of Senior Assistant.”

(Note: The aforesaid relevant portion of the order has been reproduced from the copy of the Annexure P/34).

(15) At this stage, reference may be made to Resolution No. 2. dated 19th January, 1983 of the Administrative Committee, which is reproduced as under:—

“To consider to delegate The following powers may certain administrative powers to be delegated to the Chairman:— the principal Executive Officer
(Chairman Markfed under Rule 1. To act as Appointing and 1.6 of the Punjab State Supply Punishing Authority upto the and Marketing Cooperative level of Senior Assistant.”
Services (Common Cadre) Rules,
1967.

(Note: This again has been copied from Annexure P/34).

(16) From the aforesaid resolution of the Administrative Committee, it is evident that the power was delegated to the Chairman to act as the appointing and punishing authority upto the level of Senior Assistant. Now in the wake of this resolution of the Administrative Committee, it was the Chairman being the delegate of the Administrative Committee who could have passed the retrenchment order. However, as has come in the earlier part of the judgment, the Chairman further delegated its powers to the Managing Director and this delegation was made in pursuance of Rule 80-C of the Punjab Co-operative Societies Rules, 1963, which reads as under:—

“Notwithstanding anything contained in rule 80-B when a Chairman has been appointed in pursuance of provisions

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to clause (a) of sub-section (2) of section 26 of the Act and when such Chairman is a member of Indian Administrative Service, or a Joint Registrar, or an Additional Registrar, Cooperative Societies or a non-official member of the committee and is also working in whole time in such a capacity, all powers of the "Principal Executive Officer by whatever name called of a Cooperative Society will vest; in Chairman. All other employees of the society will exercise their powers and perform their duties under his superintendence and control. The Chairman with the prior approval of the Registrar may delegate any of his powers to any employee of the Society."

(17) The question that needs determination is, whether Shri H. S. Hero Chairman, Markfed, had jurisdiction to further delegate the powers which had been delegated to him by the Administrative Committee,—*vide* its resolution dated 19th January, 1983. In my view, the answer has to be in the negative. The power was delegated under Rule 80-C of the Rules and its perusal does not support such a delegation of power by the Chairman to the Managing Director of the Board which had been delegated to him by the Administrative Committee. Rule 80-C has to be read subject to Rule 80-B, which is in the following terms:—

"The Managing Director of a Cooperative Society shall be its Principal Executive Officer and the employees of the Society shall exercise their powers and perform their duties under his superintendence and control. The Managing Director shall exercise his powers and perform his duties under the over-all supervision and control of the Committee."

(18) Under the aforesaid rule, the Managing Director of a Co-operative Society is its principal Executive Officer and all the employees exercise their powers and perform their duties under his superintendence and control. The Managing Director exercises his powers and performs his duties under the overall supervision and control of the Committee. But when a Chairman has been appointed, then all powers of the Principal Executive Officer (i.e. the

Managing Director) vest in the Chairman and all other employees exercise their powers and perform their duties under the superintendence and control of the Chairman. Under Rule 80-C, the Chairman in this limited context is the principal Executive Officer in the same sense as the Managing Director would have been, had the Government not appointed a Chairman to function as principal Executive Officer. Under Rule 80-C, the provision that the Chairman with the prior approval of the Registrar may delegate any of his powers to any employee of the Society, appears to apply only to the original and inherent powers of the principal Executive Officer, as indicated in Bye-law 27 and do not extend to the power that may be delegated specifically by the Administrative Committee. Thus, the Chairman to whom the power had been delegated by the Administrative Committee acted illegally and without jurisdiction in further delegating the powers to the Managing Director. Such delegation by the Chairman did not vest the Managing Director with any authority, nor could he, on the basis of such delegation, issue the order of retrenchment. In this view of the matter, I hold that the order resulting in the retrenchment of the services of the petitioners, is wholly illegal and void, as the Administrative Committee, which had the jurisdiction to pass such an order, did not do so and the Managing Director, who issued the impugned order, was not validly authorised to pass such an order.

(19) At this stage, it may be observed that our attention was drawn to a Single Bench judgment of this Court in (*Shri Des Raj Vs. The State of Punjab and others*) (1) by which the Cadre Rules have been held to be invalid, Against that judgment Letters Patent Appeal No. 1193 of 1981 was filed by the Punjab State Co-operative Supply and Marketing Federation Ltd. Chandigarh, and the same has been allowed by a Bench of this Court on 18th October, 1985. The Judgement of the learned Single Judge has been reversed and it has been held that the Cadre Rules are valid.

(20) This brings me to the two preliminary objections raised on behalf of the learned counsel for the respondents, the first being that an alternate remedy of raising an industrial dispute under the provisions of the Industrial Disputes Act is available to the petitioners. This objection, is liable to be rejected straightaway in view of the fact that earlier in 1981 an industrial dispute had arisen between the workman of Markfed and the Markfed which was referred

(1) CW 2953 of 1972 decided on 21st October, 1981

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to for adjudication by the Chief Commissioner, Union Territory, Chandigarh, to the presiding Officer, Labour Court, Union Territory Chandigarh, as Industrial Reference No. 22 of 27th March, 1981. In that Reference, the Markfed raised an objection that the employees of the Markfed could not invoke the jurisdiction of the Labour Court under the Industrial Disputes Act. The Presiding Officer of the Labour Court upheld the objection and recorded a finding that the reference was not maintainable. In view of this fact, the learned counsel for the respondents is not justified in contending that an alternate remedy under the Industrial Dispute Act is available.

(21) Another preliminary objection raised on behalf of the Markfed is that no writ is maintainable as respondent No. 4 is a Co-operative Society registered under the Co-operative Societies Act. As has come in the earlier part of the judgment, two writ petitions were filed by the employees whose services had also been terminated in similar situation. Those two writ petitions, to which reference has been made in the earlier part of the judgment, were decided on merits. As two different views had been taken, this petition had to be admitted for hearing by a Larger Bench. In view of this fact, we are not inclined to entertain this objection that the writ petition is not maintainable against Respondent No. 4. Moreover, no writ is being issued against respondent No. 4. The services of the petitioners have been terminated clearly in violation of the Rules and they can certainly enforce their right which affected adversely, by invoking the jurisdiction of this court under Article 226 of the Constitution.

(22) This brings me to the last preliminary objection that the petition is liable to be dismissed as an employee similarly situated has filed a petition C.W.P. No. 5661 of 1983) which was dismissed *in limine* on 2nd December, 1983. A bare perusal of that writ petition would show that none of the points which has been urged before us was agitated before the Bench. Moreover, in the

view we have taken on merits of the controversy, the decision in C.W.P. No. 5661 of 1983 does not lay down correct law.

(23) No other point arises for consideration.

(24) For the reasons recorded above, we allow this petition and quash the orders of termination passed against the petitioners and also the order of Additional Registrar (Administration) dated 25th November, 1983 (copy Annexure P/33). In the circumstances of the case, we make no order as to costs.

N.K.S.