2026:PHHC:194967



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21007-2023 (O&M)

Rajinder Singh ...Petitioner

Versus

Registrar Cooperative Societies Punjab & others ...Respondents

Sr. No.	***Particulars***	***Details***
1.	*The date when the judgment is reserved*	*21.09.2026*
2.	*The date when the judgment is pronounced*	*30.10.2026*
3.	*The date when the judgment is uploaded on the website*	*30.10.2026*
4.	*Whether only operative part of the judgment is pronounced or full judgment is pronounced*	*Full*
5.	*The delay, if any, of the pronouncement of full judgment, and reasons thereof*	*N.A.*

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. H.S.Bedi, Advocate,
for the petitioner.

Mr. Siddharth Sandhu, AAG, Punjab.

Mr. Arun Gosain, (through V.C.) and
Mr. Ramandeep Sindh Sandhu, Advocates,
for respondents No.2 & 3.

NAMIT KUMAR, J.

1. The petitioner has approached this Court under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 04.09.2023 (Annexure P-10), passed by respondent No.3, whereby the appeal preferred by the petitioner against the order dated 28.08.2023 (Annexure P-8) passed by respondent No.4 has not been accepted, by declining his request to take assistance of any retired Punjab Government employee as his Defence Assistant.

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2. Briefly stated, the facts of the case are that the petitioner was initially appointed as Dairy Helper-cum-Cleaner on compassionate basis by respondent No.2 in the year 2009. His services were regularized in the year 2011 and he was thereafter posted as In-charge, Sadik Milk Chilling Centre. A charge-sheet along with summary of charges dated 03.05.2023 (Annexure P-1) was issued to the petitioner, to which he submitted his reply dated 07.06.2023. Subsequently, an Inquiry Officer was appointed, vide order dated 23.06.2023, to inquire into the charges levelled against the petitioner.

3. During the course of the inquiry, the petitioner moved an application dated 17.07.2023 (Annexure P-2) before the Inquiry Officer seeking permission to avail the assistance of a retired Punjab Government employee as his Defence Assistant while referring to Rule 8(8) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short, 'the 1970 Rules'). The said application was opposed by the Milk Union, vide reply dated 25.07.2023 (Annexure P-3), while relying upon Rule 33.4 of the Cooperative Milk Producers Union Employees Service (Non-Common Cadre) Rules, 1996 (for short, 'the 1996 Rules'), to which the petitioner submitted his response dated 07.08.2023 (Annexure P-4). However, the Inquiry Officer, vide order dated 28.08.2023 (Annexure P-8), rejected the request of the petitioner. Aggrieved against the same, the petitioner preferred an appeal dated 02.09.2023 (Annexure P-9), which also came to be rejected by respondent No.3, vide impugned order dated 04.09.2023 (Annexure P-10). Hence, the present petition.

4. Short reply by way of an affidavit has been filed on behalf of respondent No.1, whereas written statement on behalf of respondents No.2 and 3 has been filed. In the written statement filed on behalf of respondents

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No.2 and 3, the stand taken is that the petitioner, being an employee of the Milk Union, is not a Government employee and, therefore, cannot claim the benefit of Rule 8(8) of the 1970 Rules so as to engage a retired Punjab Government employee as his Defence Assistant.

5. Learned counsel for the petitioner submits that the petitioner could not have been denied the assistance of a retired Punjab Government employee, particularly when Rule 33.4 of the 1996 Rules expressly makes the provisions of the 1970 Rules applicable to the employees of the Milk Union in matters relating to discipline, punishment and appeal. It is further submitted that Rule 33.4 does not impose any restriction that the Defence Assistant must necessarily be an employee serving or retired of the Milk Union itself. Learned counsel further submits that no co-employee of the petitioner is likely to come forward to assist him against the management, apprehending adverse consequences in his own service. It is, thus, contended that the rejection of the petitioner's request amounts to denial of the procedural safeguards.

6. Per contra, learned counsel appearing for respondents No.2 and 3 submits that the request of the petitioner has rightly been not accepted, as the Milkfed and its affiliated Milk Unions are autonomous/cooperative entities and their employees are not Government employees. It is, therefore, contended that Rule 8(8) of the 1970 Rules, which uses the expression ‘Government employee’ and permits such employee to take assistance of a Government employee or a retired Government employee, cannot be invoked by the petitioner.

7. I have heard learned counsel for the parties and have gone through the record.

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8. Before proceeding further, it would be apposite to reproduce the relevant provisions. Rule 33.4 of the 1996 Rules and Rule 8(8) of the 1970 Rules read as under:

> ***The Cooperative Milk Producers Union Employees Service (Non-Common Cadre) Rules, 1996***:
>
> ***33. Procedure of Enquiry and Punishment for Major Misconducts*** –
>
> *33.1 to 33.3 xx xx xx*
>
> *33.4 In the matter of discipline, punishment and appeal, the Punjab Civil Services (Punishment & Appeal) Rules, 1970 as amended from time to time shall apply to the employees covered under these rules. However, inquiring authority to be appointed for holding inquiry shall include retired judicial officers in addition to retired Punjab Government Officers."*
>
> ***The Punjab Civil Services (Punishment and Appeal) Rules, 1970***:
>
> ***8. Procedure for imposing major penalties*** –
>
> *(1) to (7) xx xx xx*
>
> *(8) The Government employee may take the assistance of any other Government employee (or a retired government employee) to present the case on his behalf, but may not engage a legal practitioner, or the punishing authority having regard to the circumstances of the case, so permits."*

9. The sole question that arises for consideration in the present petition is whether an employee of the Milk Union, to whom the provisions of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 have been made applicable by virtue of Rule 33.4 of the Cooperative Milk Producers Union Employees Service (Non-Common Cadre) Rules, 1996, can be denied the assistance of a retired Punjab Government employee as a Defence Assistant in departmental proceedings or not ?

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10. A bare perusal of Rule 33.4 of the 1996 Rules reveals that the rule-making authority has expressly provided for the applicability of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, as amended from time to time, to the employees governed by the 1996 Rules in matters relating to discipline, punishment and appeal. The language of the said provision does not indicate that the applicability of the 1970 Rules is confined to any particular provision thereof or that any procedural safeguard available under the said Rules has been expressly excluded in respect of the employees of the Milk Union. It is also significant that Rule 33.4 of the 1996 Rules specifically provides that the competent authority may appoint retired judicial officers in addition to retired Punjab Government Officers as inquiring authority. However, no express restriction is discernible from the said Rule prohibiting an employee of the Milk Union from seeking the assistance of a serving or retired Punjab Government employee as his Defence Assistant. The fact that the governing service rules contemplate the appointment of retired Punjab Government Officers as Inquiry Officers lends further support to the claim of the petitioner and the requirement of interpreting the applicable procedural provisions in a manner that ensures a fair opportunity of defence to the delinquent employees. The expression 'Government employee' occurring in Rule 8(8) of the 1970 Rules cannot be construed in isolation, divorced from the express incorporation of the said Rules under Rule 33.4 of the 1996 Rules. Once the provisions of the 1970 Rules have been made applicable to the employees of the Milk Union in matters relating to discipline, punishment and appeal, the benefit of the procedural safeguards contained therein cannot be denied merely on the ground that the 1996 Rules do not independently provide for the engagement

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of a retired Punjab Government employee as a Defence Assistant. Such an interpretation would frustrate the object and purpose of incorporating the 1970 Rules into the service framework governing the employees of the Milk Union.

11. The aforesaid discussion assumes greater significance in the facts of the present case, wherein the petitioner, who belongs to Class-IV service and was appointed as a Dairy Helper-cum-Cleaner, seeks the assistance of a Defence Assistant of his choice to defend himself in the departmental proceedings. Having regard to the nature of his employment and the possibility that he may not be adequately conversant with the technicalities of departmental inquiries and the applicable procedural requirements, denial of reasonable assistance may materially prejudice his right to defence. This assumes particular significance when the governing service rules themselves permit the appointment of a retired Punjab Government Officer as an Inquiry Officer. In such circumstances, the principles of natural justice and procedural fairness require that the petitioner's request for assistance from a retired Punjab Government employee be considered in accordance with the applicable rules and the principles of fairness. In the present case, the impugned orders do not disclose any legally sustainable justification for declining the petitioner's request, except his status as an employee of the Milk Union. Such a consideration, by itself, cannot constitute a sufficient ground for denying the requested assistance, particularly when the request is otherwise permissible under the applicable rules.

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12. In the present case, the petitioner's request for assistance of a retired Punjab Government employee as his Defence Assistant was rejected by the Inquiry Officer, vide order dated 28.08.2023 (Annexure P-8), and the appeal against the said order was also not accepted by respondent No.3, vide order dated 04.09.2023 (Annexure P-10). The principal ground for declining the request was that the petitioner is an employee of the Milk Union and not a Government employee. However, for the reasons recorded hereinabove, such distinction, by itself, cannot justify denial of the assistance sought, particularly when Rule 33.4 of the 1996 Rules expressly incorporates the provisions of the 1970 Rules governing disciplinary proceedings. The request was, therefore, required to be considered in the light of the applicable Rules and the principles of natural justice, ensuring a fair opportunity to defend the charges. The petitioner does not claim Government employee status for all purposes, but seeks only a procedural safeguard in disciplinary proceedings governed by the Rules made applicable to his service. Rule 33.4 must, therefore, be interpreted to give meaningful effect to such incorporation. Rationale for providing such assistance is found in the fact that workmen and lower grade employees or less qualified persons may lack familiarity with legal procedures and service rules, especially where the employer is represented by a legally trained Presenting Officer.

13. In view of the foregoing discussion, this Court is of the considered opinion that the impugned order dated 04.09.2023 (Annexure P-10), passed by respondent No.3, and the order dated 28.08.2023 (Annexure P-8), passed by the Inquiry Officer, cannot be sustained to the extent that the petitioner's request has been rejected solely on the ground that he is not a

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Government employee. Such an approach fails to give due effect to the express incorporation of the 1970 Rules by virtue of Rule 33.4 of the 1996 Rules and disregards the requirement of affording the petitioner a fair and reasonable opportunity to defend himself in the departmental proceedings.

14. Consequently, the present writ petition is allowed. The impugned order dated 04.09.2023 (Annexure P-10), passed by respondent No.3, and the order dated 28.08.2023 (Annexure P-8), passed by the Inquiry Officer, are hereby set aside to the extent indicated hereinabove. The petitioner shall be permitted to avail the assistance of a serving or retired Punjab Government employee as his Defence Assistant, subject to the proposed Defence Assistant satisfying the conditions prescribed under the 1970 Rules. The Inquiry Officer shall proceed with the disciplinary inquiry from the stage at which it stood when the petitioner's request for assistance of a Defence Assistant was declined.

15. It is clarified that the observations made hereinabove are confined to the question of the petitioner's entitlement to assistance in the departmental inquiry only and shall not be construed as an expression of opinion on the merits of the charges levelled against him. The departmental proceedings shall proceed in accordance with law, after ensuring compliance with the applicable procedural safeguards.

16. The present petition is, accordingly, allowed in the above terms.

30.10.2026 **(NAMIT KUMAR)**
Vimal/mkkoundal **JUDGE**

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

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