

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.1308 of 2015

Date of Decision : 27.1.2015

Man Bahadur Thapa

....Petitioner

Versus

Central Co-operative Consumer
Super Bazar and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Kamal Kant Verma, Advocate
for the petitioner.

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MAHESH GROVER,J.

The petitioner impugns the award dated 21.3.2014.

The undisputed facts are that the services of the petitioner were terminated by his employer namely Central Co-operative Consumer Super Bazar. The organisation thereafter went into liquidation and the petitioner was retained by the Official Liquidator while he was looking after the process of liquidating the assets of the organisation. Subsequently, when the property and assets of the organisation stood disposed of, the services of the petitioner were also dispensed with against which he raised an industrial dispute by claiming that his juniors had been retained

while his services had been dispensed with. His further prayer is that there is yet another property which is still existing for which a Chowkidar has been employed and this is discriminatory.

Upon consideration of the matter, I am of the view that what to talk of the grievance as expressed by the petitioner before this Court, initiation of proceedings before the Labour Court itself were flawed. Concededly, the petitioner's services were dispensed with by the erstwhile organisation and upon going into liquidation an arrangement was made by the Official Liquidator to retain his services till he oversaw the process of liquidation. This arrangement could hardly be under the Industrial Disputes Act where the terms 'Industry' and 'Workman' are defined as under :-

“**Industry**” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;”

“**Workman**” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under

this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person--

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

Besides, the Official Liquidator having commenced upon, and completing the process of liquidating the assets of the organisation the services of any person engaged for the purpose would naturally stands extinguished.

Consequently, the writ petition is dismissed.

27.1.2015
dss

(MAHESH GROVER)
JUDGE