

In the High Court of Punjab and Haryana at Chandigarh

1. Civil Writ Petition No. 6603 of 1994 (O&M)
Date of Decision: 10.2.2016.

Swajpur Coop. Agricultural Service Society LimitedPetitioner

Versus

Presiding Officer, Labour Court,Respondents
Patiala and another

2. Civil Writ Petition No. 16801 of 1994
Date of Decision: 10.2.2016.

Ram KishanPetitioner

Versus

Presiding Officer, Labour Court,Respondents
Patiala and another

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. K.S.Sidhu, Senior Advocate with
Mr. A.S.Sandhu, Advocate
for the petitioner.
(In CWP No. 6603 of 1994) and
and for respondent No. 2
(In CWP No. 16801 of 1994)

Mr. K.V.S.Kang, Advocate
for the petitioner.
(In CWP No. 16801 of 1994)
and for respondent No. 2
(In CWP No. 6603 of 1994)

SABINA, J.

Vide this order, above mentioned two petitions would be
disposed of as they have arisen out of the same award.

Workman Ram Kishan had raised an industrial dispute

challenging his termination by serving a demand notice. The appropriate Government referred the dispute for adjudication to the Labour Court, Patiala.

Case of the workman, in brief, was that he had worked with the society as Secretary for seven years and his services had been illegally terminated on 25.6.1988.

Case of the society, in brief, was that workman had misappropriated funds of the society to the tune of ₹ 1,00,000/-. Workman was given full opportunity to deposit the amount in question but had failed to do so. Society had lost confidence in the workman. Arbitrator had given an award against the workman with regard to the misappropriated amount in question.

On the pleadings of the parties, following issues were framed by the Labour Court:-

- “1. Whether the reference is bad in law as alleged?*
- 2. Whether the order of termination of services of the workman is justified and in order?*
- 3. Relief.”*

Parties led their evidence in support of their respective pleas.

Labour Court vide award dated 23.11.1993 held that the workman was entitled for reinstatement in service but without back wages. Hence, the present petitions by the society as well as the workman.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Case of the workman is that his services were illegally

terminated with effect from 25.6.1988 whereas case of the management was that the services of the workman had been terminated as he had misappropriated the funds of the society. The society had failed to establish that services of the workman had been terminated after following due procedure of law. The society had proved on record Exhibit M-1 copy of the award passed by the Arbitrator dated 9.6.1989. The said award has been placed on record as Annexure P-3 in the writ petition filed by the society. A perusal of the same reveals that workman had failed to appear in the said proceedings despite issuance of notice to him. The Arbitrator gave the award that workman had misappropriated the amount of ₹ 45,550/-.

Criminal proceedings were also initiated against the workman and FIR No. 135 dated 17.5.1991 was registered against the workman at Police Station Sadar Patiala under Section 406, 408 of the Indian Penal Code, 1860. Workman was acquitted by the Trial Court vide order dated 20.8.2002.

Thus, in the present case, although, the services of the workman had been terminated without holding any departmental enquiry but it is evident that the services of the workman were terminated on the ground that he had misappropriated the funds of the society. In this regard, matter was referred to the Arbitrator and FIR was also got registered against the workman. Workman has been acquitted in the criminal trial but the Arbitrator has passed the award against the workman. There is nothing on record to suggest that the said award passed by the Arbitrator had been challenged by the workman by way of appeal or revision. Rather a perusal of the statement of the workman placed on record as

Annexure P-3 in the writ petition filed by him, reveals that he had simply denied the passing of the award by the Arbitrator against him whereas the management had duly proved the award passed by the Arbitrator on record. Since in the present case, the allegation against the workman was that he was guilty of misappropriating/embezzling the funds of the society and the said allegation was fortified by the award passed by the Arbitrator, the learned Labour Court fell in error in ordering the reinstatement of the workman. Accordingly, the writ petition filed by the society challenging the award of the Labour Court whereby workman was ordered to be reinstated, is liable to be allowed whereas the writ petition filed by the workman claiming relief of back wages, is liable to be dismissed.

Accordingly, Civil Writ Petition No. 6603 of 1994 filed by the society is allowed and the award passed by the Labour Court dated 23.11.1993 is set aside and it is held that workman-Ram Kishan is not entitled to any relief. Consequently, Civil Writ Petition No. 16801 of 1994 filed by workman Ram Kishan is dismissed.

(SABINA)
JUDGE

February 10, 2016
Gurpreet