

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

CWP No.17933 of 1995

Date of Decision:22.09.2017

Rajinder Singh Raghuvanshi

... Petitioner

Vs.

The Presiding Officer Labour Court-II, Faridabad and others ... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Vivek Sheoran, Advocate for
Mr. Hemant Bassi, Advocate for the petitioner.

Mr. J.S. Bedi, Addl. A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has assailed the award dated 20.1.1995 (Annexure P-7).

The petitioner was appointed as a salesman in the then Super Bazar on 23.5.1973. His services were terminated on 28.7.1975 which was subject matter of litigation before the Industrial Tribunal which was in his favour. Consequently, he was reinstated on 4.8.1982. While working as salesman in the Super Bazar, his services were transferred to Haryana State Federation of Consumer Co-operative Store (For short "CONFED").

There was issue relating to furnishing of LPC by the Super Bazar to the CONFED. Consequently, there was internal correspondence between them. Super Bazar proceeded to revise LPC while fixing the petitioner's scale as Rs.110-210. Such a decision was taken on 25.1.1984/7.3.1984. The petitioner was transferred back to the Super Bazar from CONFED which was subject matter of litigation before the Civil Court. Civil Court set aside the order of transfer while holding that the petitioner is a permanent employee of CONFED w.e.f. 14.12.1983. These facts have not been disputed as is evident from para-14 of the award passed

by the Labour Court dated 20.1.1995. In this background, whether Super Bazar has power to fix the petitioner's pay scale in the post of salesman as on 25.1.1984 or not?

Undisputedly, the petitioner was transferred to CONFED on 1.4.1983 and on 14.12.1983, a common cadre was abolished. Thus, inter transfer from Super Bazar to CONFED was no more existing as on 14.12.1983. Even then the CONFED transferred the petitioner to Super Bazar and such transfer has been nullified by the Civil Court. Thus, a status has been given to the petitioner as a permanent employee of CONFED w.e.f. 14.12.1983. In this background, whether fixation of pay of the petitioner as Rs.110-210 by the Super Bazar vide communication/resolution dated 25.1.1984/7.3.1984 is permissible or not?

Once the petitioner is seized to be an employee of Super Bazar w.e.f. 14.12.1983, question of set righting service condition of the petitioner by the Super Bazar prospectively w.e.f. 25.1.1984/7.3.1984 while fixing his pay as Rs.110-210 is impermissible for the reasons that master and servant relationship ceases as on 14.12.1983 which has been conceded by the petitioner before the Labour Court. In this background, as on the date 13.12.1983 i.e. just one day before of cancellation of common cadre system, whatever the service condition of the petitioner in the Super Bazar that is required to be continued or carried out by the CONFED since petitioner was under the administrative control of CONFED from 14.12.1983 onwards. Thus, Super Bazar authorities have not right to fix the service condition like pay fixation from 25.1.1984/7.3.1984. Had the Super Bazar authorities fixes the petitioner's pay of Rs.110-210 one day prior to 14.12.1983, the petitioner's contention would have been accepted to the extent that he had

lien over the post in the Super Bazar. Thus, the Labour Court has not committed any error while passing the award dated 20.1.1995.

Accordingly, petition stands dismissed. Reserving liberty to the petitioner to approach the respondent-CONFED to assign pay fixation on par with others who were similarly situated persons who were appointed w.e.f. 14.12.1983 on wards. If any representation is submitted by the petitioner, the same shall be considered by the CONFED at the earliest not later than 4 months from the date of receipt of representation/application, since grievance of pay fixation relates back to the year 1983-84.

22.09.2017
rajeev

(P.B. Bajanthri)
Judge

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