

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

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**CWP-18978-1996 (O&M)
Date of decision:03.10.2017**

The Sirthala Co-operative Agricultural Service Society Ltd.

....Petitioner

Versus

Presiding Officer, Labour Court Ludhiana and another

.... Respondents

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

Present: Mr.Gurcharan Dass, Advocate for the petitioner.

None for the respondents.

P.B. BAJANTHRI, J. (ORAL)

Despite giving sufficient opportunity there is no representation on behalf of respondent-workman.

Heard learned counsel for the petitioner.

Learned counsel for the petitioner submitted that respondent No.2-workman was appointed as a Salesman on 24.10.1979 and he has worked up to 01.05.1983. While he was working as a Salesman with reference to money collector through sales proceedings he did not deposit money to society-petitioner. Consequently, the resolution was passed on 04.04.1983 to the extent that respondent-workman would deposit the money collected by him through sales proceedings. Instead of depositing the sales

proceedings money respondent-workman continued to remain absent. Thus, petitioner's have resorted to terminate the petitioner on 01.05.1983. The respondent-workman issued a demand notice on 21.02.1985. Once the respondent-workman withdrew the application before the Labour court to the extent that he has not impleaded employer by name appropriately. Thereafter, once again he approached the labour court. Labour court passed an award in favour of the respondent-workman on 25.04.1996 to the extent the respondent-workman is entitled for reinstatement without back wages. Thus, the petitioner-society is aggrieved by the award passed by the labour court dated 25.04.1996. Hence the present petition.

Learned counsel for the petitioner submitted that having regard to the conduct of the respondent-workman to the extent that he failed to deposit sales proceedings money in the petitioner's society. Thus, there is an embezzlement of Society's money. Further he remained absent after receipt of the resolution dated 04.04.1983. Thereafter, the petitioner's proceeded to terminate the services of the workman on 01.05.1983. Therefore, there is no infirmity in the order of termination. Further it was contended that having regard to the conduct of the respondent-workman both on merits in not depositing the sale proceedings money and so also not raising demand notice timely which was raised only on 21.02.1985. These aspects have not been appreciated by the labour court. Thus, the labour court has erred in directing the petitioner to reinstate the respondent-workman without back wages. Therefore, labour court award dated 25.04.1996 is liable to be set aside.

Undispute facts are that very serious allegations have been made

against the respondent-workman for embezzlement of society's money for which the petitioner should have resorted for holding an inquiry to the extent what was the money collected by the respondent-workman in sale proceedings to what extent he is liable to deposit etc. such would be done only in the inquiry to the extent of determination of embezzled money. The petitioner-society has failed to hold inquiry. Further no criminal proceedings were launched. Consequently, order of termination is liable to be set aside. Having regard to the fact that respondent-workman has raised a demand notice only on 21.02.1985 and his services have been terminated on 01.05.1983 question of reinstating him at this distance of time do not arise. Therefore, labour court award dated 25.04.1996 is modified to the extent of granting compensation to respondent-workman instead of reinstatement without back wages. Petitioners are hereby directed to pay compensation of Rs.2 Lacs to the respondent-workman within a period of 4 months.

With the above observation, CWP stands disposed of.

03.10.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No