

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 23 of 1998

Date of decision: 09.08.2017

Mahavir Parshad Verma

....Petitioner(s)

Versus

Joint Secretary, Cooperative Department, Haryana and others

...Respondent(s)

AND

CWP No. 22 of 1998

Date of decision: 09.08.2017

Mahavir Parshad Verma

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Mani Ram Verma, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of two writ petitions i.e. CWP Nos. 23 and 22 of 1998, as common questions of facts and law are involved in both the writ petitions and the revisional order dated 25.09.1996 is common. Facts are being taken from ***CWP No. 23 of 1998, Mahavir Parshad Verma vs. Joint Secretary, Cooperative Department, Haryana and others.***

The petitioner seeks quashing of the award dated 30.04.1985 (Annexure P-1) whereby, sum of Rs.2,350/- was stated to be payable by him. The liability had been fixed upon the petitioner, who was the

Manager of the respondent no. 5-Society. The Arbitrator found that the petitioner in the supervisory capacity had failed in his duties and there was cutting and it was the responsibility of the Manager to get the record completed and satisfy himself regarding the cutting. Therefore, the liability was fixed upon the petitioner. In appeal filed by the petitioner, the Assistant Registrar vide order dated 29.03.1990 (Annexure P-2), found that the appellant was negligent in his duty and did not have control over the subordinate staff and did not get the record completed properly and, therefore, upheld the order. However, while dismissing the appeal, the arbitral award had been modified to the extent that the liability as such which was fixed upon the other respondents, salesman etc, totalling Rs.11,583/- was ordered to be recovered from the petitioner alongwith 12% interest. The petitioner thereafter filed a revision, which was dismissed as not maintainable on 25.09.1996 (Annexure P-3) without taking into consideration the said fact that the petitioner's appeal could not have been modified against him in the absence of any other person having preferred an appeal.

Resultantly, the orders passed in revision dated 25.09.1996 (Annexure P-3) and appeal by the Assistant Registrar dated 29.03.1990 (Annexure P-2) cannot sustain. The petitioner could not have been affixed additional liability of other persons in his appeal itself in the absence of any other appeal having been filed by the other employees and, thus, has been put to a disadvantage only on account of him preferring to opt for his legal remedy. Resultantly, the said orders are quashed.

However, the responsibility as such fixed upon the petitioner by the Arbitrator vide its order dated 30.04.1985 (Annexure P-1) will subsist

and he will be liable to pay the said amount since it was on the basis of his negligence as such that the amount was not received by the society. Resultantly, the liability will be to the extent of Rs.2,350/- which he shall deposit within a period of 2 months from the date of receipt of certified copy of the order, failing which, the same shall be recoverable from the said petitioner. In CWP No. 22 of 1998, the petitioner will be liable to pay a sum of Rs.6973-20 alongwith interest @ 6% from the date of the award i.e. 25.03.1985.

The writ petitions stand disposed of accordingly.

09.08.2017
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No