

The Budhlada Co-operative Sugar Mills Ltd.

...Petitioner

Vs.

The Presiding Officer, Industrial Tribunal,
Bathinda and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rahul Sharma, Advocate,
for the petitioner.

None for respondent No.2.

RAJIV NARAIN RAINA, J. (Oral)

1. This petition has been filed by the petitioning cooperative Sugar Mills against the order dated August 13, 2012 passed by the Labour Court, Bathinda in an application filed under Section 33(C) (2) of the Industrial Disputes Act, 1947. The workman did not take legal recourse against his termination from service with which he was satisfied but restricted his prayer before the labour court for computing money due as retrenchment compensation under Section 25-F (a) of the ID Act. Since the prayer was limited and the right was statutory, the labour Court allowed the application.

2. It is Mr. Rahul Sharma's first contention that the Labour Court in proceedings under 33(C) (2) of the Industrial Disputes Act, 1947 could not have entered upon a debate on the character of the termination, which could have been decided only in reference proceedings. To my mind this

argument cannot be sustained since it is even the case of the management that they had put an end to the employment without complying with the conditions precedent in Section 25F. The end came in July 1994 and the labour court was within its jurisdiction to compute the money due against the management representing money which should have been paid at the time of termination.

3. The second argument of Mr. Sharma is that the application under Section 33(C) (2) of the Industrial Disputes Act, 1947 would not be maintainable before the Labour Court and the remedy would be before the authorities under the Punjab Co-operative Societies Act, 1961 to recover money. He refers to Section 82 which bars of jurisdiction of Courts and prescribes that while a cooperative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against, the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

4. Section 82 applies only to matters relating to the business of the society and not claim for money due by virtue of rights created by Central legislation. This argument has been raised in the background of petitioner facing winding up proceedings before the authorities in the office of Registrar of Cooperative Societies, Punjab. This argument also must fail. The application was maintainable before the Labour Court and workman had an existing right to claim determination of money due.

5. Mr. Sharma submits that the total amount involved is ₹ 24,470/-. The Labour Court has awarded 6% interest “per month” which is

evidently a typographical error and clerical mistake. I have seen the certified copy of the impugned order produced by Mr. Sharma. Interest has been awarded from 11 August, 2003 for the reason that from 1994 till 2003 since the applicant did not take recourse to law and slept over his rights. However, there is no limitation prescribed in initiating proceedings under Section 33(C) (2) of the ID Act. The direction that interest would run at 6% per month is an oversight and has to be modified and replaced by 6% per annum. It is ordered accordingly.

5. With these directions, this petition is partly allowed to the extent of reduction in the element of interest as above. On the other points raised, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

22.05.2017
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Whether speaking/reasoned

Yes

Whether reportable

No