

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24128 of 2013 (O&M)
Date of Decision:-17.08.2017.

Ram Narain

.....Petitioner

Versus

Haryana State Federation of Consumer Cooperative Wholesale Store
Limited, Chandigarh and another

.....Respondents

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

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

Mr. J.S. Cooner, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has assailed the award passed by the Labour Court dated 18.12.2012 (Annexure P-10) and termination order dated 31.5.1999 (Annexure P-4).

The petitioner was appointed as a Store Keeper on 20.12.1979. While he was working he was assigned the duties of collecting money from the retail outlets and wholesale points. The policy of the respondents is that persons who have been assigned the duties of collecting money from retail outlets and wholesale points were required to deposit the money in the office within 24 hours, failing which such person would be liable for misappropriation/embezzlement of stocks and funds. Petitioner on 17.11.1993 had collected a sum of ₹ 65,985.52/- at about 3.00 p.m. The

said amount could not be deposited in the office on the same day. He had time upto 3.00 p.m. on 18.11.1993. Unfortunate thing had happened in his residence that petitioner's wife was murdered and the money kept by the petitioner was looted by disgruntled elements. Faced with the above factual aspects, the respondents have proceeded to initiate disciplinary proceedings on the allegation of embezzlement of ₹ 65,985.52/-. The charges levelled against the petitioner were got proved. Consequently, petitioner's services were terminated on 31.5.1999. Thus, the petitioner raised an industrial dispute. Labour Court decided the reference against the petitioner. Hence, the present petition.

Learned counsel for the petitioner submitted that petitioner had not embezzled or misappropriated the fund collected by him on 17.11.1993 to the extent of ₹ 65,985.52/- as is evident from the fact that after collection of the aforesaid amount, he had kept the same at home and it is undisputed that money was looted and his wife was murdered by disgruntled element. Consequently, it was beyond his control to deposit amount to the extent of ₹ 65,985.52/- on 18.11.1993 before 3.00 p.m. Therefore, on the face of the record, it is evident that petitioner had not embezzled and misappropriated ₹ 65,985.52/- collected by him on 17.11.1993. Consequently, order dated 31.05.1999 and the award dated 18.12.2012 (Annexure P-10) passed by the Labour Court are liable to be set aside.

Per contra learned counsel for the respondents submitted that petitioner should have deposited the amount collected on 17.11.1993 on the same day in the office. Further collected money cannot be taken to home. Thus, it is evident that petitioner has misappropriated the fund collected by

were got proved. Order of termination has been upheld by the Labour Court. Therefore, no interference is called for.

Heard learned counsel for the parties.

Having regard to the fact that petitioner was assigned the duty of collecting sale proceeds money from retail outlets and wholesale points. Petitioner has rendered service from 20.12.1979 till 31.05.1999. It seems that this is an isolated incident happened on 17 & 18.11.1993 to the extent that petitioner had collected sale proceeds money to the extent of ₹ 65,985.52/- and carried the amount to his residence. Unfortunate incident had happened in his residence that disgruntled element looted the money and so also murdered his wife which were undisputed. Therefore, question of misappropriation of funds or money collected by the petitioner with reference to sale proceeds from retail outlets and wholesale points do not arise. That apart collection of money from the retail outlet and wholesale points could be deposited within 24 hours from the date and time of collection. In the present case, petitioner had collected money on 17.11.1993 at about 3.00 p.m. and he had time till up to 3.00 p.m. on 18.11.1993. Thus, one cannot draw inference to the extent that petitioner has misappropriated the money collected through sale proceeds from retail outlets and wholesale points. The respondents nor Labour Court had appreciated the factual aspects that has happened on 17 & 18.11.1993 so as to appreciate whether inquiry and imposition of penalty were warranted or not. Thus, the respondents as well as Labour Court have erred in holding that petitioner's services are to be terminated. Accordingly, order of termination dated 31.05.1999 (Annexure P-4) as well as Labour Court award dated 18.12.2012 (Annexure P-10) are hereby set aside.

Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

August 17, 2017.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.