IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 102 CR-656-2015 (O&M)

Date of decision : 03.07.2018

M/s Hari Singh & Sons and others ..... Petitioners

VERSUS

Rajinder Kumar ..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Abhishek Singla, Advocate, for the petitioners.

Mr. Ivneet Pabla, Advocate, for the respondent.

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DEEPAK SIBAL, J. (ORAL)

Through the present petition challenge is made to the order dated 05.02.2014, passed by the Appellate Authority under the Payment of Wages Act, 1936, Kurukshetra (for short, the Act) through which the respondent has been found entitled to receive ₹43,625/- alongwith interest @ 12% per annum on account of his due salary from the date of filing of the petition till its realization.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that on 01.04.1998 the respondent was engaged by the petitioners as a Muneem and he served on such post till 31.03.2007. After leaving service the respondent approached the Authority constituted under the Act for payment of his salary due to him. The Authority after hearing the rival claims of the parties rejected the respondent's application. Such order was challenged by the respondent before the Appellate Authority which through the order impugned in the present petition allowed his claim.

Mr. Abhishek Singla, Advocate, appearing on behalf of the petitioners admitted that after the respondent had left the service of the petitioners an amount of ₹43,625.40 was due towards him. However, he submitted that such amount was paid to him and entries in this regard were duly reflected in the cash book. He further drew the attention of this Court to the statement of RW-2 Gurnam Singh who had categorically submitted that the respondent had been paid his due salary by the petitioners. According to him, the above facts had been wrongly ignored by the Appellate Authority. In the alternative, Mr. Singla submitted that the interest granted to the respondent was on the higher side. According to him the same should be 6% per annum.

Mr. Ivneet Pabla, Advocate, appearing on behalf of the respondent countered the above submissions by contending that the impugned order was based on sound reasoning. So far as the entries in the cash book are concerned, the same were made by one Jaswinder Singh who was deliberately not produced by the petitioners and thus, the same could not be relied upon. The statement of Gurnam Singh was also unworthy of reliance as the same was vague.

Learned counsel for the parties have been heard and the record perused.

It is not disputed that the respondent served the petitioners from 01.04.1998 till 31.03.2007 and after he left the said service an amount of ₹43,625.40 was due towards him on account of unpaid salary. The only dispute is whether such amount had been paid to the respondent as claimed by the petitioners.

No receipt was produced by the petitioners acknowledging the receipt of the aforesaid amount by the respondent. The *bahi*/*roznamcha* which would contain the entries with regard to such payment was also not produced by the petitioners. The entries in the cash book relied upon by the petitioners were admittedly made by one Jaswinder Singh who was not produced by the petitioners to prove them and thus, no reliance on the same can be placed. So far as the reliance by the petitioners on the statement of RW-2 Gurnam Singh is concerned, his statement is also unworthy of credence as it does not contain any details as to when, where and in whose presence the amount due to the respondent was paid by the petitioners.

Further, the conduct of the petitioners also does not aspire confidence. In the written statement filed by the petitioners before the authority constituted under the Act it had specifically been denied by them that the amount claimed by the respondent was reflected by them in their income tax returns. However, the petitioners admitted before the Authority as also this Court that such amount was duly reflected in their income tax returns. Therefore, such averment made by the petitioners in their written statement filed by them before the Authority was false.

In view of the above, the Appellate Authority has rightly held the respondent entitled to receive from the petitioners an amount of ₹43,625. However, the alternate prayer made by learned counsel for the petitioners regarding the awarded rate of interest has merit. 12% interest is found to be on the higher side. Accordingly, it is directed that the respondent shall be entitled to recover the due amount from the petitioners alongwith interest @ 6% per annum from the date of filing of the application before the authority constituted under the Act till realization of the same.

With the above modification, the present petition is dismissed.

03.07.2018 [DEEPAK SIBAL]
shamsher JUDGE

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