

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

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CWP-11163-1999 (O&M)

Date of decision:26.02.2018

Sahib Singh

...Petitioner

Versus

The Presiding Officer, Labour Court, Bathinda and another

.... Respondents

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

Present: Mr. H.S.Bedi, Advocate for the petitioner.

Ms. Jagdeep Bains, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (ORAL)

In the present petition, petitioner has challenged the award passed by the Labour court dated 30.10.1998 (Annexure P1).

2. Petitioner is an employee of respondent No.2-Society. While he was in service, on the allegations of embezzlement of lacs of rupees of the society inquiry was held. Thereafter, he was dismissed from service by the competent authority on 11.12.1993. Feeling aggrieved by the order of dismissal he had preferred an appeal before the Deputy Registrar. Deputy Registrar dismissed petitioner's appeal on 25.07.1994. When things stood thus, instead of filing revision under Sub-Rule 2(i) of Rule 15 of Punjab Co-operative Societies Rules, 1997 (for short 'Rules, 1997') he had issued a demand notice on 07.02.1996. Thereafter, reference was made. Labour court decided the reference on 30.10.1998 stating that labour court has no

jurisdiction in view of the provisions of Punjab Cooperative Societies Act, 1961 (for short 'Act, 1961') read with Rules 1997. Learned counsel for the petitioner relied on two decisions titled as ***RC Tiwari versus M.P. State Co-operative Marketing Federation Limited and others*** reported in AIR 1997 SC 2652(1) and ***The Ambala Central Co-operative Bank Limited, Ambala versus The State of Haryana and others*** reported in The Punjab Law Reporter Volume C-III(1993-1) 424 while contending that labour court has jurisdiction.

3. Per contra, learned counsel for respondent No.2 resisting petitioner's contention submitted that in view of the Act, 1961 read with the Rules, 1997 Labour Court has no jurisdiction. Rightly labour court has dismissed.

4. Heard learned counsel for the parties.

5. Crux of the matter in the present petition is whether petitioner can raise the dispute relating to his service condition before the Industrial Tribunal or not? Having regard to the Act, 1961 read with the Rules, 1997 which is special law, whatever the procedure prescribed in the Act and Rules were required to be followed. Reliance upon Supreme court decision namely ***RC Tiwari's case (supra)*** is concerned which is against the petitioner, Supreme Court has held that in view of the special law petitioner therein has no right to seek any relief before the Industrial Tribunal. Supreme Court in the case of ***Nair Service Society versus Dr. T. Beermasthan and others*** reported in (2009)5 SCC 545 in para 48 held as under:-

“48. Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State governing that field. Reservation provisions are enabling provisions, and different State Governments can have different methods of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.”

6. Supreme court has held that decisions cannot be straight away applied in a case unless and until relevant provision of law were taken note of. In the present case the Act, 1961 read with the Rules, 1997 it is evident that aggrieved person has a remedy under the relevant rules like filing appeal and revision. Therefore, labour court has rightly held that reference cannot be entertained under the Industrial Disputes Act.

7. CWP stands dismissed.

26.02.2018

pooja saini

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

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No