

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

CWP No. 7026 of 2012

Date of Decision: 12.03.2018

Hr. State Fed. of Consumer Coop. Wholesale Stores Limited
...Petitioner

Vs.

State of Haryana and others
...Respondents

2. CWP No. 26700 of 2012

Rameshwar Dass
...Petitioner

Vs.

Hr. State Fed. of Consumer Coop. Wholesale Stores Limited
...Respondent

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

Present: Mr. Amit Jaiswal, Advocate &
Mr. Dinesh Kumar, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of both the above captioned petitions.

2. The Arbitrator had no jurisdiction while deciding case of recovery of money for causing financial loss to employer in ordering reinstatement to service. As far as recovery is concerned, the Arbitrator held the petitioner not guilty of causing financial loss. The Federation (Confed) went in revision to the State Government. The State Government agreed with the Arbitrator on the issue of recovery that

nothing was recoverable. Writ petition has been filed questioning the jurisdiction of the Arbitrators to pass an order of reinstatement. Writ of mandamus is sought to undo the offending part of the order of the Arbitrator and the State Government permitting Confed to recover the loss of Rs. 8,95, 257.50 along with interest and expenses.

3. I have heard the learned counsel for the parties and have come to the view that the award of the Arbitrator regarding recovery of money and the dismissal of the writ petition, does not give rise to an order which is fundamentally flawed or is arbitrary on the evidence before the Arbitrator to call for interference in extraordinary writ jurisdiction under Article 226 of the Constitution of India. Challenge to the awards of the Arbitrator acting under the Haryana Cooperative Societies Act, 1984 are limited. An appeal would not lie against the award of the Arbitrator passed under the Haryana Cooperative Societies Act, 1984. It may be mentioned that when this petition was filed, the interim order was passed on 19.04.2012 staying the operation of the impugned order. This stay order has continued. The stay order accordingly is made absolute. The petition is dismissed partially as far as the termination order is concerned. The recovery part is upheld.

CWP No. 26700 of 2014

4. The termination order questioned in the accompanying writ petition was passed on 03.11.2008. The Arbitration award came on 28.12.2010. The revisional order was passed on 08.02.2012. The memo

was issued on 10.12.2012. The petitioner cannot be faulted in his impression that the order of reinstatement continued because of the stay order and it is only on advice received and in the face of the pendency of the CWP No. 7026 of 2012 that the petitioner-Rameshwar Dass approached this Court in CWP No. 26700 of 2014 challenging the order of termination/dismissal and the appellate order.

5. Learned counsel for the petitioner submits and rightly so, that the appellate order is non-speaking. It may be mentioned that the order of termination passed by Confed in 2008 has been called in question in the present writ petition filed in the year 2014, but all the same, since there was an order of reinstatement by the Arbitrator which had continued to operate in favour of the petitioner, he cannot be accused of delay and laches in approaching this Court in the year 2014 against the order which is per se invalid for want of recording reasons for the rejection. In these circumstances, I am of the considered view that substantial justice would be done if the impugned order dated 03.11.2008 is set aside and the matter is remitted to the Board of Directors to take a fresh decision on merits as per law after taking into consideration the objections filed by the petitioner. The petitioner may file comprehensive objections within six weeks before the Board of Directors of Confed and they would take a decision thereon within a further period two months thereafter after affording an opportunity of hearing to the petitioner and adhering the principles of natural justice.

Fresh order be conveyed to the petitioner as soon as it is passed. If the petitioner wants, he may be represented by authorized representative before the Board of Directors.

6. The petitions stand disposed of as above.

(RAJIV NARAIN RAINA)
JUDGE

12.03.2018
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Whether speaking/reasoned : *Yes*
Whether reportable : *No*