

CWP-1652-1996

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1652-1996

Date of Decision: April 11, 2019

Puran Singh

... Petitioner

vs.

Joint Secretary Cooperation (Appeals) and ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

ARUN MONGA, J (ORAL)

Perusal of the impugned award shows that original reference of the dispute was not qua the petitioner, who was working as a Salesman at the relevant time. However, in the course of arbitration proceedings, the Arbitrator *suo moto* issued notice to the petitioner and impleaded him as a party without making any specific reference qua the dispute against the petitioner.

2. I am of the view that the procedure adopted by the Arbitrator does not stand the judicial scrutiny and is against the provisions of the Arbitration and Conciliation Act inasmuch as no dispute qua the petitioner was referred before the Arbitrator and he could not assume *suo moto* jurisdiction qua the petitioner by making him a party without there being any reference before him qua the petitioner.

3. Even otherwise, on merits, the recovery of the cost of 207 wooden crates imposed on the petitioner pursuant to the impugned award flies in the face of admitted factual position that no objection was raised at

CWP-1652-1996

-2-

the time of handing over/taking over of the charge on 06.06.1987 in respect of wooden crates. There is nothing on record to show that at the time of handing over/taking over of the charge, there was shortage of 207 wooden crates and the cost of the same comes to Rs.10,350/-.

4. Furthermore, the petitioner, at the relevant time, was working as Manager of respondent No.4-Society and in the ordinary course of discharge of his duties, he had no connection with regard to handing over and taking over of the charge in question.

5. In the premise, the petitioner could not have been held liable for loss of the wooden crates, even if it is assumed that the same were found to be lost on the date of handing over/taking over of the charge.

6. The Appellate Authority, vide upholding the impugned order passed by disciplinary authority, did not go into these aspects which were raised by the petitioner before it. The Revisional Authority also without assigning any reason upheld the order of the Appellate Authority as also the disciplinary authority. The same, therefore, do not stand judicial scrutiny and are liable to be set aside.

7. In the premise, the impugned orders dated 03.04.1991, 27.05.1994 and 27.09.1995 (Annexures P-4 to P-6, respectively) are set aside and writ petition stands allowed in above said terms.

April 11, 2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No