

LPA No.355 of 2022

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

LPA No.355 of 2022

Date of decision : 02.06.2022

The Aspal Kalan Multi Purpose Cooperative Agriculture
Service Society Limited

.....Appellant

VERSUS

Presiding Officer, Industrial Tribunal and another

....Respondents

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Ramesh Goyal, Advocate, for the appellant.

AUGUSTINE GEORGE MASIH, J.

In this appeal, challenge has been posed to the order dated 02.02.2022 passed by the learned Single Judge, whereby the writ petition preferred by the appellant – The Aspal Kalan Multi Purpose Cooperative Agriculture Service Society Limited (hereinafter referred to as 'appellant – Society') has been dismissed upholding the award of the Industrial Tribunal, Patiala, dated 17.08.2021 (Annexure P-7), whereby the appellant – Society has been directed to pay the wages from 01.06.2013 to 31.03.2014 at the rate of ₹4,000/- per month to respondent No.2 – workman.

It is the contention of the learned counsel for the appellant that respondent No.2 – workman was held liable for recovery of an amount of ₹2,02,350/-, which relates to embezzlement pertaining to the essential commodities, as per the award of the Arbitrator. This amount was an embezzlement at the hands of respondent No.2 – workman. The amount of

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recovery which has been effected from respondent No.2 – workman and as deposited by him is this amount which was held to be the liability of the said respondent. The Industrial Tribunal as well as the learned Single Judge have proceeded on the assumption that respondent No.2 – workman (Surinder Singh), Ex-salesman, has deposited the excess amount of wages which he has received from the Society without approval of the Registrar Cooperative Societies, which was mandatory. Therefore, the excess amount of wages paid to respondent No.2 – workman is separate and distinct from the amount of recovery made because of the embezzlement of stock at the hands of respondent No.2 – workman. He, therefore, contends that the award of the Industrial Tribunal as also the order of the learned Single Judge cannot sustain and deserve to be set aside.

The facts which are not in dispute are that respondent No.2 – workman was appointed as Salesman by the appellant – Society on 29.11.2008 for 89 days at a fixed salary of ₹2,000/- per month. Vide resolution dated 07.10.2009 passed by the appellant - Society, salary of respondent No.2 – workman was doubled to ₹4,000/- per month. Respondent No.2 – workman, in pursuance to the said resolution, started receiving his salary at the rate of ₹4,000/- per month and continued to receive the same until a communication was received from the Registrar Cooperative Societies that the said resolution has not been approved and the amount be recovered from him for the period 01.07.2011 to 31.03.2013 i.e. ₹2,08,360/-. It is also not in dispute that respondent No.2 – workman continued to perform his duty till 31.03.2014. The amount as is alleged to have been embezzled by him stands refunded i.e. ₹2,02,350/-, which fact is

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also admitted by the appellant – Society.

Recovery of ₹2,08,360/- as is being sought to be effected from respondent No.2 – workman for excess payment of salary to him, cannot be said to have been so ordered because of any embezzlement, misrepresentation or misleading on the part of respondent No.2 – workman. As a matter of fact, the resolution was passed by the Society on 07.10.2009 and it is in pursuance to the said resolution that the enhanced wages of ₹4,000/- per month were paid to him by the appellant – Society, which excess amount of ₹2,000/- per month is being sought to be recovered. The said claim is not sustainable in the light of the findings recorded by the Industrial Tribunal based upon the pleadings and the records. Rather what has come on record is that respondent No.2 – workman is further entitled to wages w.e.f. 01.06.2013 to 31.03.2014 as he had performed his duty for the said period at the rate of ₹4,000/- per month.

The findings being based upon the proper appreciation of the evidence on record, which is primarily documentary in nature, do not call for interference by the Writ Court. The order passed by the learned Single Judge, therefore, is not required to be interfered with.

The present appeal being devoid of merit, therefore, stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

02.06.2022
Harish

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No