

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

CM-11920-CWP-2021
in/and
CWP-14577-2005 (O&M)
Date of Decision: 28.11.2023

BHAJAN SINGH

...Petitioner

Versus

THE LABOUR COURT, PATIALA THROUGH
ITS PRESIDING OFFICER AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. A.S. Pannu, Advocate
for the petitioner.

Mr. Chanderdeep Singh, Advocate
for respondent No.2.

HARSH BUNGER, J. (ORAL)

CM-11920-CWP-2021

This is an application for fixing the main case on an actual date, which otherwise stands admitted on 13.09.2005 and is now on the Regular Board of this Court at Serial no.1425.

For the reasons stated in the application, the same is allowed as prayed for and the main case i.e. ***CWP-14577-2005*** is taken up on Board today itself.

CWP-14577-2005

1. Petitioner (Bhajan Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for quashing the part of the Award dated 14.10.2003 (Annexure P-2) passed by learned Labour Court, Patiala (for short 'the Labour Court'); whereby, the relief of back wages had been denied to the petitioner.

2. Briefly, the petitioner was recruited by respondent No.2-The Lachhmani Cooperative Agricultural Service Society (here-in-after called as 'the respondent-Society') as a Cashier where he worked from 01.01.1985 upto 17.01.1994. It appears that a departmental enquiry was conducted against the petitioner; wherein the enquiry report was submitted and thereafter, the respondent-Society passed an order dismissing the petitioner from service. The petitioner challenged the said dismissal order before the Assistant Registrar Cooperative Society, Patiala by way of filing an appeal, which was also dismissed vide order dated 29.07.1994. The petitioner further preferred an appeal before the Joint Registrar, Cooperative Societies, which was also dismissed vide order dated 15.12.1994. It appears that thereafter, the petitioner raised an industrial dispute, which was referred for adjudication before the learned Labour Court below.

3. The learned Labour Court, vide impugned Award dated 14.10.2003 (Annexure P-2) held that the respondent-Society had failed to prove that the dismissal of the petitioner was justified. As regards the issue of grant of back wages to the petitioner is concerned, the learned Tribunal below has returned the following findings :-

“23. When the petitioner entered the witness box as WW1, he stated in his cross examination that he has been earning Rs.2000/- p.m. by working as a Pathi. The society was paying to him Rs.1714/- p.m. only. That way, the petitioner has been earning more than what the society was paying to him.”

4. Accordingly, the learned Labour Court below granted the following relief to the petitioner :-

“26. The termination of the services of the petitioner by the respondent society is neither justified

nor in order. I declare that the petitioner is entitled to reinstatement with continuity of service but without back wages. The petitioner is directed to present himself before the respondent society within one month from the publication of this Award. The respondent society is burdened with costs of Rs.500/-. File be consigned.”

5. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court, seeking quashing of part of the Award dated 14.10.2003 (Annexure P-2); whereby the relief of back wages has been denied to him.

6. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance.

7. A perusal of the impugned Award (Annexure P-2) would reveal that the petitioner, while stepping into the witness box, had clearly stated that he had been earning Rs.2,000/- p.m. by working as a Pathi, whereas the Society was paying to him only Rs.1,714/- p.m.

Taking into consideration the aforesaid admission of the petitioner, the learned Labour Court below has proceeded to grant relief to the petitioner by directing his reinstatement with continuity of service but without back wages.

8. In the afore-mentioned circumstances, it can be easily gauged that the petitioner was earning more than what was being paid to him by the Society while he was in service.

9. It is well settled by now that grant of back wages is not automatic and the Court has to consider each case on its own merits.

10. In the peculiar facts and circumstances of this case, since the learned Labour Court below has found that the petitioner was earning more after his dismissal from service than what was being paid to him while he

was in service; in my considered view, the learned Labour Court was justified in not granting the back wages. Therefore, there is no merit in the instant writ petition and the same is hereby dismissed.

11. All pending application/s, if any, shall also stand closed.

November 28, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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