

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

CWP-8237-2023

Date of decision : 03.05.2023

**The Dadupur Multipurpose Cooperative
Agricultural Service Society Ltd.**

...Petitioner

Vs.

**The Presiding Officer, Industrial
Tribunal, Ludhiana and another**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vishal Sharma, Advocate for the petitioner.

MANOJ BAJAJ, J.

By means of this writ petition filed under Article 226 Constitution of India petitioner has prayed for issuance of a writ of certiorari for setting aside the award dated 18.05.2022 (Annexure P-14) passed by respondent No.1, whereby industrial dispute raised by respondent No.2 was decided in his favour, by directing his reinstatement with continuity of service and back-wages. Further, prayer is for issuance of a writ of mandamus, directing stay of the execution proceedings.

The facts in brief leading to the writ petition are that the respondent No.2/workman was appointed by the petitioner on 07.03.1983 as Salesman Essential Commodities Consumer Cell, who was drawing salary of Rs.15,246/- per month, and he worked for 32 years with the petitioner/management till his suspension on 18.03.2014. Thereafter, finally on 15.04.2015 his services were terminated without any notice and retrenchment compensation. Aggrieved against his removal from service, respondent No.2/workman raised industrial dispute on the ground that no show cause notice was served upon him, therefore, termination order has been passed in

violation of mandatory provisions of the Industrial Disputes Act, 1947. As per claim statement, he prayed that the termination order passed by the management be set aside and he be reinstated with continuity of service and full back-wages.

The management contested the claim by filing written statement and refuted the stand of the workman by pleading that the workman misappropriated the huge funds of the society. As per averments, the workman deposited the sale proceeds of the shop of the society amounting to Rs.44,879/- on 29.08.2013, whereas stock was outstanding against him even prior to 31.06.2006 and he did not pay any interest on this amount for a period of more than six years, which comes to Rs.24,343/-. Further, while denying the other averments in the claim, it was prayed that the claim be dismissed.

Thereafter, rejoinder was filed by the workman, wherein, while reiterating his claim, he denied the contents of the entire written statement.

Upon considering the pleadings of the parties, the Labour Court framed three issues, and after considering the evidence adduced by the parties, accepted the claim of respondent No.2-Jagdev Singh through impugned award dated 18.05.2022. Hence this writ petition.

Learned counsel has argued that respondent No.2, being salesman of the petitioner/society embezzled stock of essential commodities and deposited the sale proceeds of the shop of the society amounting to Rs.44,879/- on 29.08.2013, whereas stock was outstanding against him even prior to 31.06.2006. The interest of this amount for a period of more than six years comes to Rs.24,343/-, which has not been deposited, therefore, it amounts to misconduct, which resulted in suspension of respondent No.2 and after proper

inquiry, his services were terminated. He submits that against the legitimate termination of his services, respondent No.2 raised industrial dispute and through reference No.150/2016, parties reached before the Labour Court, wherein, through the impugned award dated 18.05.2022, the Labour Court has ordered his reinstatement in service with full back-wages. He submits that the findings returned by the Labour Court are against the evidence, as according to the learned counsel proper inquiry was conducted, therefore, it cannot be held that termination of the respondent No.2 is violative of the principles of natural justice. In support of his case, learned counsel has placed reliance upon the judgment passed by Hon'ble Supreme Court in "State of Punjab Vs. Dr. Harbhajan Singh Greasy", 1996(9) SCC 322. He prays that the impugned award be set aside.

During the course of hearing, learned counsel for the petitioner was asked to produce the copy of the inquiry report holding the respondent No.2 guilty of charge of embezzlement and in response, he invited the attention of the Court to Annexure P-10, however, a perusal of the said communication shows that it is a copy of resolution passed in meeting by Special Committee on 16.02.2015, wherein the Committee of the society observed that the reply sent by respondent No.2 to the show cause notice is being sent to the Managing Committee of society for further necessary action.

Upon hearing, learned counsel and considering his submissions, this Court does not find any merit in the writ petition as the sole charge against respondent No.2 was relating to the non deposit of interest on the amount of Rs.44,000/-, which was deposited by the salesman after a period of six years. Further, a reading of the impugned award indicates that the Labour Court has

Carefully examined the documentary evidence on record, while holding that after placing the salesman under suspension, he was not paid any suspension allowance w.e.f. 18.03.2014 till 15.04.2015, the date when his services were terminated. It has been noticed that as per rule, the suspension period cannot exceed six months, but in this case, the respondent No.2 remained under suspension for more than a year. The Labour Court noticed the admission suffered by RW-1 during cross examination that no suspension allowance was paid to the workman. Besides, during the course of hearing, it is also not disputed by learned counsel that the petitioner had joined his services in the year 1983 and continuously worked for more than three decades till his services were terminated.

Considering the nature of the charge and absence of any inquiry, this Court finds that the impugned award is based upon proper appreciation of evidence on record and does not suffer from perversity. Lastly, the decision relied upon by learned counsel in “State of Punjab Vs. Dr. Harbhajan Singh Greasy” is not applicable in the present case, as it relates to a defective inquiry, whereas in the present case, no inquiry was conducted.

Resultantly, no case is made out for exercise of extra ordinary writ jurisdiction.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

03.05.2023
vanita

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