

CR-380-2024 (O&M)

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2024:PHHC:021675

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-380-2024 (O&M)

Reserved on 07.02.2024

Date of decision:13.02.2024

Manjeet Singh

....Petitioner

Versus

The Dagon Multipurpose Agriculture Cooperative Society Limited

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Tahaf Bains, Advocate
for the petitioner

ANIL KSHETARPAL, J

1. Through this revision petition filed under Article 227 of the Constitution of India, the petitioner calls in question the correctness of a detailed order passed by the Executing Court (Civil Judge, Junior Division, Ludhiana) on 09.11.2023 while directing the petitioner to refund the excess amount of Rs.13,86,583/- within a period of 4 weeks from the date of order, failing which he shall be liable to pay the amount alongwith simple interest at the rate of 9% per annum. In this case, substance of the dispute lies with the award passed by the Industrial Tribunal on 29.01.2018. The relevant part of the relief granted to the petitioner reads as under:-

“a) Full salary from the date of suspension to the date when he attained the age of superannuation and all the retiral benefits under the

Rules at the rate of pay scale fixed for the post of Secretary under the Rules.

All the above mentioned benefits to be paid to Manjeet Singh within 30 days of publication of award otherwise he will also be entitled to claim the same with interest at the rate of 9% per annum till actual payment.”

2. The correctness of the aforesaid award has been challenged in CWP-19512-2018 by the Management, in which the High Court has stayed the recovery of wages beyond 50%. On one hand, the petitioner claim that they are entitled to calculation of wages on the basis of pay scales payable to the employees of the Punjab Govt. whereas it is the case of the respondent that it is a private society registered under the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as ‘1961 Act’) and the decision of the payments of salary to its employees is decided by resolution passed by the Society from time to time. In this case, the respondent-Society has paid an excess amount of Rs.13,86,582/-, which is sought to be recovered by the Executing Court, in exercise of powers of restitution as provided under Section 144 of the Code of Civil Procedure, 1908.

3. Learned counsel representing the petitioner does not dispute the correctness of calculation carried out by the court while assessing the payment of excess amount. Previously also the petitioner filed CR-2898-2023 which was disposed of on 17.10.2023 while directing the Executing Court to grant an opportunity to the petitioner to furnish fresh calculation.

4. Learned counsel representing the petitioner, while referring to the provisions of the 1961 Act, and the Rules framed thereunder submits that all the Registered Cooperative Societies are bound to pay the salary equivalent to the Punjab Govt. employees. He submits that the Executing Court has erred in overlooking this fact.

5. This Court has considered the submissions made by the learned counsel representing the petitioner, however, finds no merit therein on account of the following reasons:-

a) It is not the case of the petitioner that other employees of the respondent-Society are being paid the pay scale/pay equivalent to the Punjab Govt. Employees.

ii) It is not permissible for the Executing Court to go beyond the scope of decree passed by the Industrial Tribunal

iii) The writ petition filed by the Management is pending. The petitioner can agitate the matter in the pending writ petition, however, the Executing Court is required to implement the decree. The Executing Court is not expected to decide the question as to whether the employees of a Private Society are entitled to the same pay scale as is payable to the Punjab Govt. employees. It may be noted here that the petitioner does not claim that he is a Govt. servant. He does not dispute that the respondent-Society is a private Society though registered with under the 1961 Act.

6. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

7. Hence, dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

13.02.2024
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(ANIL KSHETARPAL)
JUDGE

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