



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

205

CWP-753-1998

Date of Decision : 10.09.2024

THE ABOHAR COOPERATIVE SPINNING MILLS LTD AND ANR.

.... PETITIONERS

V/S

THE PRESIDING OFFICER, LABOUR COURT, BATHINDA AND
ANR.

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Puneet Kansal, Advocate for the petitioners.

Mr. Sandeep Khunger, Advocate for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. Petitioner, a Co-operative Society, through instant petition under Article 226 of the Constitution of India is seeking setting aside of award dated 05.12.1997 whereby Labour Court has answered the reference in favour of the workman.

2. The respondent No.2-workman was appointed by management as Security Guard on 20.01.1982 on 89 days basis. He was promoted to the post of Security Supervisor w.e.f. 27.12.1988. The management vide order dated 15.12.1990 dispensed with his services. At the time of retrenchment, he was paid up-to-date salary, 03 months' notice and retrenchment compensation. The workman assailed action of management before Labour Court which passed the impugned order. The workman was ordered to be reinstated along with back wages.



3. The petitioner was wound up vide order dated 09.05.2003 passed by the competent authority. The liquidator was appointed who took over charge of all the assets and liabilities of the society. The liquidator till date has not closed accounts of the society meaning thereby he is in the process of settling the assets and liabilities.

4. Mr. Puneet Kansal, Advocate submits that as per order dated 30.07.1999 passed by this Court, the petitioner has complied with provisions of Section 17-B. The workman remained silent for 25 years and thereafter pointed out before this Court on 01.04.2024 that he has not been paid wages in terms of Section 17-B. Society was wound up, thus, it was not possible to find out whether there was compliance of Section 17-B after 1999. Had the workman not been receiving payment, he must have raised grievance before the liquidator or this Court.

5. Mr. Sandeep Khunger, Advocate submits that the petitioner has neither paid back wages nor complied with section 17-B after July 1999. The writ petition was admitted, thus, workman despite non-receipt of wages in terms of Section 17-B could not file application either before this Court or the liquidator.

6. I have heard the arguments of counsel for the parties and perused the record.

7. From the perusal of record, it is evident that workman has not been paid back wages which as per both sides come to approximately Rs.1 lakh. The workman undisputedly has been paid wages as per Section 17-B till July 1999. The petitioner on account of winding up of



society is expressing its inability to prove whether after 1999 wages were paid or not. The respondent is claiming that after July’ 1999 he was not paid wages but he did not file application either before liquidator or this Court till 2024. Society has already been wound up and liquidator is looking after affairs of the society. The petitioner concededly has not paid back wages which were ordered by Labour Court. The workman cannot be reinstated because unit has already been closed. The back wages were not paid because of stay granted by this Court.

8. Considering the fact that workman cannot be reinstated, he was paid wages as per Section 17-B of ID Act till July’ 1999, para 50-52 of judgment of Supreme Court in *Central Council for Research in Ayurvedic Sciences and another v. Bikartan Das and others, 2023 SCC OnLine SC 996*, and efflux of time, I do not find it appropriate to set aside findings of Labour Court *qua* back wages.

9. The petition stands disposed of with a direction to petitioner to pay back wages as ordered by Labour Court in accordance with provisions applicable to a society under liquidation. The payment shall be made along with interest @ 7.5% per annum till the date of closure of the unit i.e. 19.05.2003.

(JAGMOHAN BANSAL)
JUDGE

10.09.2024
anju

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