



(207)

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

LPA-1204-2017 (O&M)

Date of decision:- 05.09.2024

Jagjit Singh

...Appellant(s)

Versus

The Presiding Officer, Industrial Tribunal, Ludhiana and another

...Respondent(s)

CORAM: **HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE**
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. I.P.S. Doabia, Advocate,
 Mr. Sanjeev Roy, Advocate,
 for the appellant.

 Mr. M.S. Bedi, Advocate,
 for respondent No. 2.

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SHEEL NAGU, C.J. (ORAL)

1. This Intra Court Appeal has been filed against the order dated 19.04.2017, passed by the learned Single Judge, whereby the petition preferred by the employer (respondent No. 2 herein) was allowed and as a necessary consequence the Award dated 15.09.2011 passed by the Presiding Officer, Industrial Tribunal, Ludhiana, re-instating the appellant-workman with 50% back-wages was set aside.

2. A bare perusal of the order passed by the learned Single Judge reveals that the learned Single Judge was persuaded to take the view that on account of appellant-workman having availed remedy under the Cooperative Societies Act, 1961 is estopped from pursuing remedies under the Industrial Disputes Act, 1947.

3. During the course of arguments, learned counsel for the appellant-workman has relied upon Full Bench decision of this Court in



Ambala Central Co-op. Bank Limited Ambala Vs State of Haryana and others,
1993(2) S.C.T. 310, wherein it was held thus:-

“7. In view of the consistent decisions referred to above specifying the scope of the authorities under the *Co-operative Societies Act*, the Civil Court and the Labour Court and the remedies available there-under, the decision of the Division Bench of this Court in the *Kapurthala Central Cooperative Bank Limited v. State of Punjab*, (supra), does not lay down the law correctly. In this case it was held that the employee of a Co-operative Society having elected his remedy of filing an appeal under the provisions of the Act and failed there could not get the matter referred through the State to the Labour Court under *Section 10* of the Industrial Disputes Act. It was also held in this case that the decision of the authorities under the *Co-operative Societies Act*, Registrar of the Co-operative Societies) would operate as *res judicata*. Since the dispute between the workmen and the Bank in the present case related to establishment of the Society, it could be referred to the Arbitrator under *Section 102* and adjudicated under *section 103* of the Act reproduced above. Jurisdiction of the Civil Court would obviously be barred to challenge those decisions. However, Industrial Disputes Act dealing with the special subject relating to rights of the workman and the management and the relief provided therein could only be granted by the Court established under the *Industrial Disputes Act*. *Section 128* of the Haryana Cooperative Societies Act was rightly held to be *ultra vires* i.e. the remedies available under the *Industrial Disputes Act* could not be denied to the workman of the management, a Co operative Society. In that sense the order of the Registrar passed under the provisions of the *Co-operative Societies Act* cannot be treated as a decision final to operate as *res judicata* in the Labour Court in a reference under *Section 10* of the Industrial Disputes Act. Obviously when the order itself is under challenge the same cannot operate as *res judicata*. To sum up, it is held that after the Registrar decides the matter between an employee and employer, a Co-operative Society, with regard to the termination of his service under *Sections 102* and *103* of the Haryana Co-operative Societies Act, 1984 the matter could be referred under *Section 10* of the Industrial Disputes Act as an industrial dispute to the Labour Court for adjudication. It is further held that such a decision made by the Registrar under the *Haryana Co-operative Societies Act* would not operate as *res judicata* in proceedings initiated on reference under *Section 10* of the Industrial Disputes Act in the Labour Court.

8. The matter be put up before the Division Bench for further proceedings.”



4. The Full Bench, therefore, held that the remedies under the Industrial Disputes Act, 1947 cannot be closed to be availed by a workman merely because he has availed certain remedies under the service regulations and the availing of such service regulations/remedies cannot amount to *res-judicata* to bar availing of remedy under the general law of Industrial Disputes Act, 1947.

5. It appears that the learned Single Judge failed to consider the said Full Bench decision which was rendered as early as on 06.01.1993 and, therefore, this Court has no manner of doubt that the error in the Single Bench order goes to the root of the matter.

6. Accordingly, the appeal stands allowed to the following extent:-

- (i) The impugned order dated 19.04.2017 passed by the learned Single Judge is set aside.
- (ii) The matter be now placed on 15.10.2024 before the learned Single Judge as per roster for considering the issues on merits.
- (iii) The parties are directed to appear before the learned Single Judge on 15.10.2024.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

05.09.2024
Amodh Sharma

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