



209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 12.09.2024

1. LPA-1908-2018(O&M)

Savitri Devi **...Appellant**

Vs.

Presiding Officer, Industrial Tribunal-cum-Labour Court and others **...Respondents**

2. **LPA-97-2020 (O&M)**

Yashoda **...Appellant**

Vs.

Presiding Officer, Labour Court and others	...Respondents
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3. **LPA-100-2020 (O&M)**

Mukesh Kumar **...Appellant**

Vs.

President/Managing Committee and others ...Respondents

4. LPA-101-2020 (O&M)

Baldev Singh **...Appellant**

Vs.

President/Managing Committee and others ...Respondents

5. **LPA-102-2020 (O&M)**

Amar Singh **...Appellant**

Vs.

President/Managing Committee and others ...Respondents



6. LPA-103-2020 (O&M)
Sukhdev Singh ...Appellant

Vs.

President/Managing Committee and others ...Respondents

7. LPA-104-2020 (O&M)
Rajbir ...Appellant

Vs.

President/Managing Committee and others ...Respondents

8. LPA-99-2020 (O&M)
Satwinder ...Appellant

Vs.

President/Managing Committee and others ...Respondents

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

Present: Ms. Abha Rathore, Advocate
for the appellants in LPA-1908-2018.

Mr. Rajesh Bansal, Advocate
Mr. Ajay Bansal, Advocate
for the appellants in LPA No. 97 to 104 of 2020.

Mr. Deepak Bhardwaj, DAG, Haryana.

Mr. Aman Bansal, Advocate
for respondent No.2 and 3 in LPA No. 99 to 104 of 2020.

Mr. Ashutosh Kaushik, Advocate
for respondents No.2 and 3 in LPA No. 97 of 2020.

SHEEL NAGU, CHIEF JUSTICE, (ORAL)

CM-4952-LPA-2018 in LPA-1908-2018;CM-270-LPA-2020 in LPA-97-



2020; CM-274-LPA-2020 in LPA-100-2020; CM-276-LPA-2020 in LPA-101-2020; CM-278-LPA-2020 in LPA-102-2020; CM-280-LPA-2020 in LPA-103-2020; CM-281-LPA-2020 in LPA-104-2020; CM-272-LPA-2020 in LPA-99-2020

These applications are filed under Section 5 of Limitation Act, 1963 for condonation of delay in filing the appeals.

In view of the grounds taken in the applications, delay in filing the appeals is condoned.

Civil Miscellaneous Applications are allowed.

Main case

1. These intra Court appeals have been filed against the order dated 13.09.2018, passed by learned Single Judge, whereby, the challenge made to the award passed by the Labour Court dated 14.03.2017 was upheld. The award dated 14.03.2017, decided the reference with regard to illegal termination from service against the workman by holding that in view of the alternative remedy of approaching the educational Tribunal, constituted pursuant to the Apex Court's decision in '**T.M.A. Pai Foundation & others vs. State of Karnataka & others**', 2003(2) SCT 385, the reference was not maintainable.

2. It appears that the Labour Court as well as learned Single Judge were oblivious of the decision of this Court rendered by the Full Bench in the case of '**Ambala Central Co-op. Bank Limited Ambala Vs State of Haryana and others**', 1993(2) S.C.T. 310, where similar dispute was adjudicated upon by holding 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 Cooperative 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.”

3. It was held by the Full Bench that remedy available under the Industrial Disputes Act, 1947 cannot be excluded by any other special law. Therefore, it is available to the workman, irrespective of availability of other alternative remedy. As such, it appears that the decision rendered by the Labour Court as well as learned Single Bench, is *per incuriam* the view of Full Bench in the case **‘Ambala Central Co-op. Bank Limited Ambala Vs State of Haryana and others’, 1993(2) S.C.T. 310.**

4. Similar view has recently been taken by this Bench on 05.09.2024, while allowing the LPA-1204-2017, titled as **“Jagjit Singh Vs. The Presiding Officer, Industrial Tribunal, Ludhiana and another”**.

5. In view of the above, the impugned order dated 13.09.2018, passed by learned Single Judge as well as the award dated 14.03.2017 passed by the Labour Court are set aside.

6. The matter is now directed to be placed before the Labour Court for adjudication of the reference, on merits, as expeditiously as possible, since the original reference was made as early as in 2013.

7. The parties through their counsels are directed to appear before the concerned Labour Court on 01.10.2024.

8. Accordingly, all the aforesaid appeals stand disposed of.

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

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

12.09.2024

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