2024:PHHC:002345

139 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-34-2024 (O&M)
Date of decision: 09.01.2024

The Gurdaspur Central Cooperative Bank Ltd., Gurdaspur

....Appellant

Versus

Manjit Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashwani Prashar, Advocate for the appellant

Mr. Dheeraj Mahajan, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the correctness of the concurrent findings of fact arrived at by the courts below is assailed by the defendant. In substance, the respondent (plaintiff before the trial court) has been held entitled to over-time allowance of Rs.2,12,996/-.

2. In order to comprehend the issue involved in the present case, some relevant facts, in brief, are required to be noticed.

3. The plaintiff was an employee of the Gurdaspur Central Cooperative Bank Limited (the appellant). He was posted as a Branch Manager in a Branch located in the premises of the Cooperative Sugar Mill. The plaintiff was given an additional charge and he was required to work over-time whenever required in order to secure the interest of the appellant-Bank. For that over-

time, he was to be paid overtime allowance. It is the plaintiff's case that he has not been paid the overtime allowance of Rs.2,12,000/-. The defendant, while contesting the suit, claimed that there is no outstanding amount payable to the plaintiff as the Cooperative Sugar Mill has communicated that the entire amount has been paid. The plaintiff, in order to prove his case, examined an official from the Cooperative Sugar Mill namely Som Dutt, the former Deputy Chief Accounts Officer. He has stated that the entire amount was not paid and he has verified the invoices submitted by the plaintiff for claiming the overtime allowance.

4. The learned counsel representing the appellant was given an opportunity to cross-examine the witness, however, he failed to impeach his credibility. The appellant failed to produce any evidence to prove that the entire payment has been made except a communication from the Cooperative Sugar Mill dated 14.02.2015. However, that communication was never proved. No official from the Cooperative Sugar Mill was examined. Thus, both the courts decreed the plaintiff's suit.

5. Learned counsel representing the appellant submits that the Cooperative Sugar Mill was a necessary party as the payment for over-time allowance is payable to the plaintiff (respondent herein) by the Cooperative Sugar Mill. He further submits that as

per communication dated 14.02.2015, the entire amount has been paid.

6. On the other hand, the learned counsel representing the respondent has drawn the attention of the Court to the deposition of Sh.Som Dutt, Deputy Chief Accounts Officer.

7. This Court has considered the submissions made by the learned counsel representing the parties.

8. Admittedly, the respondent was an employee of the appellant-Bank. He has no relation with the Cooperative Sugar Mill. Moreover, the learned counsel representing the appellant admits that the payment of overtime allowance was made by the Bank to the plaintiff after debiting the account of the Cooperative Sugar Mill.

9. In these circumstances, it is evident that the respondent (plaintiff) has no direct relationship with the Cooperative Sugar Mill

10. As regards the second argument, it may be noted that former official of the Cooperative Sugar Mill has been examined by the plaintiff (respondent herein). He has proved that the amount is outstanding. Thus, the onus is shifted on the defendant to prove that the entire amount has been paid. The respondent did not examine any witness from the Cooperative Sugar Mill to prove that fact.

11. Keeping in view the aforesaid facts, no ground to interfere is made out.

12. Hence, dismissed.

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

09.01.2024 **(ANIL KSHETARPAL)**
rekha **JUDGE**

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