

(1995) 11 P&H CK 0085
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1373 of 1982

Chhotu Ram

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 20-11-1995

Acts Referred:

Citation : (1996) 113 PLR 182

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : Harish Chander Rathi, for the Appellant; Amol Rattan, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—The Petitioner was the President of the Beri Nav Bharat Ex-Servicemen Cooperative Transport Society Ltd., Beri, District Rohtak. The said society went in liquidation prior to 1976 and a liquidator was appointed during the winding up proceedings of the Cooperative Society. As an amount of Rs. 10,319/- alongwith interest was due from the President and another member Sardar Singh Gaur who is the 4th respondent, a dispute was raised by the Liquidator. The dispute was referred to the Arbitrator who passed an award on 21.6.1977 making the petitioner and Sardara Singh Gaur liable to pay the amount of Rs. 10,319/- alongwith interest. Both of them filed an appeal to the Deputy Registrar, Cooperative Societies, Rohtak, on 11.11.1977. The said appeal was dismissed as barred by time. A further revision was filed by them to the Joint Registrar (Cooperation) who also dismissed the appeal confirming the orders of the Deputy Registrar, Cooperative Societies. Therefore, the petitioner field this writ petition for issuance of a writ of certiorari to quash the award and the consequential orders on appeal and revision.

2. The learned counsel for the petitioner contended that the Arbitrator is the same person who had been appointed as Liquidator. Therefore, he was having a dual charge and he could not decide the arbitration proceeding's. He further

contended that the award passed by the Arbitrator was an ex-parte award and he had no knowledge of the award and on coming to know of the award he applied for a copy of the same and filed appeal after obtaining a copy of the order on appeal. Therefore, the appeal filed by him was within time. He further stated that no amount was due from the petitioner, therefore, the award is liable to be set-aside.

3. The first contention of the learned counsel for the petitioner that the Arbitrator was also the Liquidator, is without foundation. The record shows that one Mahender Singh was appointed as Liquidator while Kurra Ram was appointed as Arbitrator to decide the dispute. The award (Ann. P.1) itself clearly shows that it was passed in the presence of Mahender Singh, Liquidator who is the Sub-inspector of Cooperative Society, Beri. In appeal (Ann. P.2) also Mahender Singh, Sub-Inspector was shown as the Liquidator of the society. It is not stated in the writ petition that Kurra Ram who was appointed as Arbitrator was also acting as Liquidator. Therefore, the contention of the learned counsel that the same person who acted as Liquidator was also appointed as Arbitrator and on that ground the proceedings are liable to be set-aside is liable to be rejected as there is no factual foundation for the same.

4. The learned counsel for the petitioner contended that the appeal was in time. He has not stated in the writ petition that on coming to know of the passing of the award, he filed the writ petition. The award was passed on 21.6.1977. According to the appellate order, the appellant applied for grant of a copy of the award on 19.10.1977 and the certified copy of the award was supplied to him on 27.10.1977 and the appeal was filed on 11.11.1977. The application itself was made after expiry of the period for filing the appeal against the award dated 21.6.1977. There is no mention either in the writ petition or even before the appellate authority namely Deputy Registrar, Cooperative Societies as to when the petitioner came to know of the award. Therefore, the contention of the learned counsel for the petitioner that after coming to know of the award, he applied for a copy of the order, cannot be accepted.

5. The learned counsel contended that no amount was due from the society and he had paid all the amounts while there is no documentary evidence/proof of the same. The petitioner has not stated even in the writ petition when he paid the amount due from him to the society. I do not therefore, find any grounds warranting interference with the orders passed by the Tribunals below.

6. The writ petition is devoid of merit and the same is accordingly dismissed. No costs.