
(2010) 10 P&H CK 0101
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 17826 of 2010

Hans Raj	Vs	APPELLANT
Additional Registrar (D), Co-operative Societies and Others		RESPONDENT

Date of Decision : 13-10-2010

Acts Referred:

Citation : (2010) 10 P&H CK 0101

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Judgement

Kanwaljit Singh Ahluwalia, J.—The Petitioner, who was employed as Accountant with Respondent No. 7-Jalandhar Central Co-operative

Bank Limited, Phillaur Branch, District Jalandhar, in the present writ petition, has assailed the award dated 24.9.2004 (Annexure P1), passed by

the Arbitrator which was affirmed by the Revisional Authority, vide its order dated 30.5.2008 (Annexure P3).

2. In the award (Annexure P1), it was stated that in the year 2001-02, the Audit Department had detected an embezzlement of Rs. 4,40,440/- and

had fixed the liability of Ram Saran, Secretary of the Ashahoor Co-operative Agricultural Multipurpose Society Limited, Ashahoor, Phillaur

(hereinafter referred to as ""the Society"")-Respondent No. 3. In view of the detection of embezzlement by the Audit Department, the matter was

referred to the Arbitrator. The Arbitrator came to the conclusion that Ram Saran, Secretary of the Society, was liable to the extent of 2/3rd of the

embezzled amount and since there was a connivance of the employees of Respondent No. 7-Jalandhar Central Co-operative Bank Limited,

Phillaur (hereinafter referred to as ""the Bank""), therefore, the Bank is also

liable to the extent of 1/3rd thereof. The concluding portion of the award reads as under:

...The record of the society, special audit report for the year 2001-02, statement of Sh. Ram Saran, Secretary (under suspension) and statement

made by counsel for the bank and employees of the bank and the statement given by Kulwinder Singh, member and after hearing the arguments of

Sh. Davinder Kumar Gupta, Advocate, I Malkit Ram, Inspector Co-operative Societies, Mithra, being Arbitrator fixed the liability of Sh. Ram

Saran, Secretary (under suspension) to the extent 2/3 share and due to connivance of the employees of the Jalandhar Central Co-operative Bank

Ltd., Jalandhar, fixed their liability to the extent of 1/3 of the embezzled amount and pass the award against the Jalandhar Central Co-operative

Bank Ltd., Jalandhar as under:

Principal Interest Cost Total

Ram Saran 27040 11641 166 38847

Secretary (Under

Suspension)

The Jalandhar 13520 5820 84 19424

Central Coop. Bank

Ltd. Jalandhar

40560 17461 250 58271

If the amount is not recovered from Sh. Ram Saran, Secretary (under suspension) and the Jalandhar Central Co-operative Bank Ltd. Jalandhar in

ordinary manner the first party-society have a right to take action against them u/s 63-A, 63-B and 63-C of the Punjab Co-operative Societies

Act, 1961. The interest will continue with the awarded amount till its recovery. The Jalandhar Central Co-operative Bank Ltd., Jalandhar can

recover the awarded amount from Sh. Ram Asra, Manager and Hans Raj, Accountant (Loan Clerk). The award is reserved on 09.09.2004,

which has been written today on 24.09.2004. Both the parties may be informed regarding this decision through post.

4. While pronouncing the award, the Bank was given the liberty to recover the

amount from its employees, namely Respondent No. 6-Ram Asra, Manager and Petitioner-Hans Raj.

5. Admittedly, the award (Annexure P1) has been upheld by the Revisional Authority vide its impugned order (Annexure P3). The Bank has

accepted the award and has not challenged the same by proceeding further in accordance with law. Therefore, the award qua the Bank has

attained its finality. Mere observation made by the Arbitrator that the Bank is at liberty to recover the amount from its employees, in itself, will not

determine the liability of Respondent No. 6-Ram Asra, Manager and Petitioner-Hans Raj. There is an in-house mechanism, available to the Bank,

to recover the amount from its employees, after following the due procedure and giving an opportunity of hearing to the delinquent employees.

6. Learned Counsel for the Petitioner has submitted that during the relevant time, a number of employees had dealt with the accounts and only the

Petitioner and Ram Asra, Manager, cannot be made scapegoat.

7. Needless to say, in case the Bank formulates an opinion that the amount, so fastened by the award, is to be recovered from its employees, it

shall carry an exercise as to who are those erring employees. The Bank may do so, if the same is not time barred.

8. With the observations made above, the present petition is disposed of.