
(2002) 01 P&H CK 0060
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition 2184 of 2000

Kartar Singh

APPELLANT

Vs

Additional Secretary Cooperation Punjab and Others

RESPONDENT

Date of Decision : 15-01-2002

Acts Referred:

Citation : (2002) 2 RCR(Civil) 633

Hon'ble Judges : Jawahar Lal Gupta, J

Bench : Single Bench

Advocate : M.S. Kang, for the Appellant; K.K. Bheniwala, D.A.G. and Sushma Chopra, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The Hoshiarpur Central Cooperative Bank Ltd., Hoshiarpur, initiated proceedings for the recovery of Rs. 92,367/- against the petitioner. The matter was referred for arbitration to the Assistant Registrar, Co-operative Societies Hoshiarpur. By his award dated January 18, 1999 the Arbitrator held the petitioner liable to pay the amount of Rs. 84,220/- along with future interest at the rate of 16%. Costs were also awarded. A copy of the award has been produced as Annexure P-1 with the writ petition. Aggrieved by the order, the petitioner filed an appeal which was dismissed by the Deputy Registrar, Cooperative Societies Hoshiarpur, vide his order dated June 2, 1999, a copy of which is at Annexure P-2 with the writ petition. The petitioner filed a revision petition, It was dismissed by the Additional Secretary, Department of Cooperation, Govt. of Punjab, vide order dated December 23, 1999. A copy of the order has been produced as Annexure P-4 with the writ petition. Aggrieved by these orders, the petitioner has approached this Court through the present writ petition. He alleges that the dispute was not referable to the Arbitrator. A reasonable opportunity was not given to him and that the orders passed by the various authorities are arbitrary and illegal. On these premises, the petitioner prays that the award and the orders copies of which are at Annexures P-1, P-2 and P-4 be quashed:

2. Separate written statements have been filed by respondent Nos. 4 and 6 controverting the petitioner's claim. It is not necessary to notice the pleas raised on behalf of the respondents in detail in view of the short issue on which the case is being considered.

3. Mr. M.S. Kang, learned counsel for the petitioner, contends that he was given notice to appear before this Arbitrator on January 18, 1999. Without supplying the requisite documents including the claim petition, the Arbitrator had given the award on the same day viz. January 18, 1999. The petitioner was afforded no opportunity much less than a reasonable opportunity to prove his claim. He further submits that if an opportunity had been granted, the petitioner could have raised all the available pleas including the objection regarding the maintainability of proceedings for arbitration u/s 55 of the Punjab Co-operative Societies Act, 1961.

4. Ms. Sushma Chopra, appearing for respondent No. 4, submits that the petitioner could have asked the Arbitrator to adjourn the case.

5. It is not disputed that the petitioner had appeared before the Arbitrator on January 18, 1999. The award was given by him on the same day. It is also not disputed that the award is for a substantial amount of money. In the circumstances of the case, it would have been only just and fair to grant the petitioner some opportunity to examine the claim petition and to bring on record the relevant material. This was, admittedly, not done. Resultantly the petitioner was unable to raise the available pleas including his objection to the maintainability of proceedings u/s 55 of the Act.

6. Ms. Sushma Chopra submits that the objection regarding jurisdiction was not raised before the Arbitrator. It is, undoubtedly, so. However, it is apparent from the sequence of events that the petitioner did not get any opportunity before the Arbitrator. He was called for January 18, 1999 and the award was given on the same day. In this situation, it is apparent that the petitioner did not have a reasonable opportunity to raise the available pleas.

No other point has been raised.

In view of the above, the impugned orders are set aside. This would, however, not preclude the respondents from proceeding afresh in accordance with law.

The writ petition is allowed in the above terms. No costs.