
(1995) 01 P&H CK 0082
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 16396 of 1992

Nazam Singh

APPELLANT

Vs

Labour Court and Another

RESPONDENT

Date of Decision : 16-01-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)

Citation : (1997) 3 LLJ 218 : (1995) 110 PLR 72

Hon'ble Judges : N.K. Sodhi, J

Bench : Single Bench

Advocate : Sabina, for the Appellant; Sumeet Mahajan, for the Respondent

Final Decision : Allowed

Judgement

N.K. Sodhi, J.—Petitioner - workman is said to have worked with the management as a salesman for two years and was drawing a monthly salary of Rs. 758/- when his services were terminated on January 3, 1989. This termination gave rise to an industrial dispute and the same was referred for adjudication to the Presiding Officer, Labour Court-respondent. It is common case of the parties that the workman had also challenged the order terminating his services in appeal before the Deputy Registrar, Cooperative Societies and the order was upheld. Since the order of termination had been upheld in appeal, the Labour Court relying on a Division Bench judgment of this Court in Kapurthala Central Cooperative Bank Ltd. v. State of Punjab (1991 1) P.L.R. 624 held that the reference u/s 10(1)(c) of the Industrial Disputes Act was not maintainable and, therefore, the preliminary issue in this regard was decided in favour of the management and against the workman. The dispute was not adjudicated on merits and the reference was answered in the affirmative holding that the workman was not entitled to any relief. It is this award that has been challenged in the present petition filed under Article 226 of the Constitution.

2. Counsel for the parties arc agreed that the Division Bench judgement in Kapurthala Central Cooperative Bank's case (supra) has since been overruled by

a Full Bench of this Court in the Ambala Central Cooperative Bank Ltd. v. State of Haryana and Ors. (1993 1) 103 P.L.R. 424 It has been held by the Full Bench that the decision of the departmental authorities in appeal does not operate as res judicata when proceedings are initiated u/s 10(1) of the Act for adjudicating an industrial dispute. In view of the decision of the Full Bench in Ambala Central Cooperative Bank's case (Supra), the impugned award of the Labour Court cannot be sustained.

3. In the result, the writ petition is allowed and the impugned award set aside. Since the dispute has not been decided on merits, the case is remanded to the Labour Court to dispose of the same on merits and in accordance with law after affording an opportunity of hearing to both the parties. Parties through their counsel have been directed to appear before the Labour Court on February 20, 1995. There is no order as to costs.