(1997) 03 SC CK 0219

In the Supreme Court Of India

Case No : Civil Appeal No. 9635 Of 1995

Arka Bikas Chakravorty APPELLANT

Vs

State Bank of India and Others RESPONDENT

Date of Decision : 18-03-1997

Acts Referred:

Bihar Shops and Establishments Act, 1953 — Section 26(2), 4(2)

Citation : (1997) 11 SCC 624

Hon'ble Judges : J. S. Verma, J;B. N. Kirpal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

J.S. Verma and; B.N. Kirpal, JJ.-The appellant was an employee of Respondent 1 State Bank of India. His services were terminated on 1-8-1977. He made an application under Section 26(2) of the Bihar Shops and Establishments Act, 1954 (8 of 1954) to the statutory authority constituted thereunder on 26-6-1978. On 13-8-1985, during the pendency of that application, a notification was issued under Section 4(2) of the Act amending the Schedule to the Act which resulted in excluding all branches of public sector banks situated in the State of Bihar from the purview of all the provisions of the Act. Admittedly, from that date, the remedy provided in Section 26(2) of the Act was not available to the employees of the State Bank of India in any branch situated in the State of Bihar like the appellant. Notwithstanding this change, the authority under the Act proceeded to decide the appellant''s claim under Section 26(2) of the Act and granted relief to the appellant by setting aside the order of termination and directing his reinstatement. The Bank filed a writ petition in the High Court challenging that order which was dismissed by the learned Single Judge. A Letters Patent Appeal filed against that judgment to the Division Bench of the High Court has been allowed and the order of the authority under Section 26(2) of the Act has been set aside. Hence, this appeal by special leave.

2. It is clear from the above facts that the remedy provided in Section 26(2) of

the Act was abolished as a result of the notification issued under the Act in the year 1985. The only question is whether in respect of a pending application, the authority under Section 26(2) of the Act continued to have the jurisdiction to decide the same on merits.

3. It is well settled in law, as under:

"Where, however, the remedy is repealed, the Court loses its jurisdiction to enforce that remedy and the pending cases must terminate at the stage they have reached when the repeal occurs, since statutes affecting remedies are retrospective." [Sutherland - Statutory Construction (5th Edn.)]

4. It is, therefore, obvious that the authority under Section 26(2) of the Act ceased to have jurisdiction to decide any pending application from the date of issue of the notification under Section 4(2) of the Act whereby the Act ceased to apply to the employees of any branch of the State Bank of India situated within the State of Bihar. The order made by the authority in favour of the appellant was, therefore, without jurisdiction. The High Court has rightly reached that conclusion.

5. Consequently, the appeal is dismissed. No costs.