

(1967) 01 KL CK 0023
In the High Court Of Kerala

Cranganore Town Co-operative Bank, Ltd.	APPELLANT
Vs	
Sankara Velichapad and Another	RESPONDENT

Date of Decision : 16-01-1967

Acts Referred:

Kerala Shops and Commercial Establishment Act, 1960 — Section 18

Citation : (1967) 2 LLJ 116

Hon'ble Judges : V.P. Gopalan Nambiyar, J

Bench : Single Bench

Judgement

V.P. Gopalan Nambiyar, J.—The petitioner is the Cranganore Town Co-operative Bank, Ltd., No. 102, which seeks to quash the order of the appellate authority u/s 18 of the Kerala Shops and Commercial Establishments Act, 1960, against an order of the bank, terminating services of respondent 2, one of its employees, on the ground of old age and infirmity. The appellate authority found that the termination of service was legal and that respondent 2 was old and not in a position to get on with his work as peon in the bank. Having so held, it proceeded to award a certain compensation to the employee and directed that half-a-month's salary for every year of service would be a reasonable compensation. The amount awarded as compensation worked out on that basis came to Rs. 1.395. The tribunal further directed payment of Rs. 1,625.27 as provident fund, notice-pay, etc., due to respondent 2 and ordered that if the payments directed were not made on or before 16 December 1965, the amounts will carry Interest at the rate of 61 percent from 16 December 1965. Exhibit P. 1 is a copy of the appellate authority's order.

2. Counsel for the petitioner raised the contention that having held that the termination of service of respondent 2 was justified and proper, the appellate authority had no jurisdiction to grant relief by directing payment of compensation or disbursal of the amount due by way of provident fund or otherwise. In order to appreciate the contention Sub-clause (2) and (3) of Section 18 of the Kerala Shops and Commercial Establishments Act, 1960, may be set out:

18. (2) Any employee whose services are dispensed with may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer.

(3) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as It deems fit in the circumstances of the case.

3. Sub-clause (2) of the section authorizes an appeal by the employee on the ground that there was no reasonable cause for dispensing with the service or on the ground that he had not been guilty of misconduct. Sub-clause (3) defines the scope of the orders that may be passed by the appellate authority in the appeal so preferred. As I read that sub-clause, the various orders which can be passed, are provided alternatively and not cumulatively. The first of these alternatives is dismissing the appeal. That can obviously arise only if the authority found that there was sufficient cause for dispensing with the service of the employee. In the present case, the tribunal did find that the termination of service was legal and justified. In that view, it ought to have dismissed the appeal, as provided in the first of the alternatives in Sub-clause (3) of Section 18 of the Act. According to my understanding of the said sub-clause, the other alternatives provided in that sub-clause can spring into operation only if the tribunal did not dismiss the appeal. In other words, if the tribunal found that the termination was proper, there was no scope for invoking any of the other alternatives mentioned in Sub-clause. (3) of the section. Neither the Government Pleader nor the counsel for respondent 2 maintained contra. Therefore, the direction of the tribunal awarding certain payments by way of compensation by the petitioner and directing the disbursement of the provident fund amount, notice pay, etc., and further granting interest on these amounts on default of payment till the specified date was unjustified and without jurisdiction. On this short ground, I allow this original petition and quash Ex. P. 1. There will be no order as to costs.