
(2012) 01 CHH CK 0002
In the Chhattisgarh High Court
Case No : Writ Appeal No. 463 of 2011

Damodar Prasad	Vs	APPELLANT
State of Chhattisgarh and Another		RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Madhya Pradesh Co-operative Societies Act, 1960 — Section 55(2)

Citation : (2012) 01 CHH CK 0002

Hon'ble Judges : Satish K. Agnihotri, J;R.S. Sharma, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—The instant intra court appeal arises from the order dated 21.09.2010 passed by the learned Single Bench in W.P. No. 546/2003 Zila Sahakari Kendriya Bank Maryadit, Bilaspur v. State of Chhattisgarh & Others hereunder, the writ petition filed by the respondent No. 4/Bank (for short 'the Bank') was allowed and the impugned order dated 22.11.2002 passed by the Joint Registrar (for short 'the JR') to the extent of grant of back wages, was set aside.

2. The facts, in brief, are that the appellant (hereinafter referred to as 'the employee') while working as Samiti Sewak in the Bank was terminated vide order dated 11.01.1993 on the ground of misappropriation of funds to the tune of Rs. 67,254.67. The dispute in respect of the termination order was referred to the Deputy Registrar (for short 'the DR') by the employee under the provisions of section 55(2) of the M.P./C.G. Cooperative Societies Act, 1960 (for short 'the Act, 1960'). The DR, by order dated 12.02.1999 (Annexure P/9 to the writ petition) held that the employee was not afforded proper opportunity of hearing to put forward his case and as such, the order of termination was bad, being contrary to the provisions of law. The DR directed reinstatement of the employee without back-wages.

3. There against, an appeal was preferred by the Bank to the JR, Bilaspur Division, Bilaspur. The JR dismissed the appeal of the Bank in respect of the order of re-instatement, however, granted back-wages to the employee in the appeal filed by the Bank and not by the employee, by order dated 22.11.2002. Being aggrieved, the Bank preferred a writ petition being W.P. No. 546/2003. The learned Single Judge, after having considered all the aspects of the matter, came to the conclusion that the order of denial of back-wages to the employee by the DR, became final as the same was not challenged by the employee before the JR or any other appropriate authority. Thus, the JR exceeded his jurisdiction by grant of back-wages in an appeal preferred by the Bank against the order of reinstatement, passed by the DR in favour of the employee. Hence, this appeal by the employee.

4. Shri Rajendra Patel, Learned Counsel appearing for the employee would submit that the order passed by the learned Single Judge is bad as there was no reason to set aside the order of grant of back-wages passed by the JR. There is no dispute in respect of the fact that the employee had not preferred any appeal against the order passed by the DR, denying grant of back-wages to the employee.

5. We have carefully perused the pleadings, documents filed in the writ petition and also the order passed by the learned Single Judge.

6. Admittedly, there was no challenge by the employee to the order passed by the DR in respect of denial of back-wages and as such, the JR was wrong in granting back-wages in an appeal preferred by the Bank in respect of reinstatement of the employee. The employee had not challenged the denial of back-wages by the DR before any forum. Thus, the same has attained finality. There is no infirmity or illegality in the order passed by the learned Single Judge.

7. The next issue is with regard to filing of this appeal after a delay of 201 days by the employee without disclosing sufficient and justified reasons for condoning the delay. The application for condonation of delay merely states that the delay was on account of lack of knowledge about the limitation in preferring the writ appeal which is not a sufficient ground to condone the delay. However, in the facts of the case, as there is no merit in this case, delay is condoned

8. As a result, the appeal is dismissed. No order as to costs.