
(2015) 01 RAJ CK 0139
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2562/2001

Ganganagar Central Cooperative Bank Ltd.	APPELLANT
Vs	
State of Rajasthan and Others	RESPONDENT

Date of Decision : 21-01-2015

Acts Referred:

Rajasthan Co-operative Societies Act, 1965 — Section 128, 128(1), 75

Citation : (2015) 01 RAJ CK 0139

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : Rajesh Joshi, for the Appellant; Moti Singh, Advocates for the Respondent

Final Decision : Allowed

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, the petitioner Cooperative Society seeks to challenge validity, legality and propriety of the order dated 20.3.2001 passed by Cooperative Minister, State of Rajasthan in a revision preferred by the respondent No. 3 Mr. Mewa Singh (referred to hereinafter as "the respondent").

2. Facts in brief are that the respondent No. 3 was employed as a Manager in various Cooperative Societies under the administrative control of Ganganagar Central Cooperative Bank Limited (referred to hereinafter as "the petitioner"). Reports of misconduct were received against the respondent on which two charge-sheets under Rule 17 of the Primary Agriculture Credit Cooperative Managers Service Rules, 1991 were served to him on 29.3.1994 and 21.5.1994 respectively. The respondent Manager was placed under suspension on 11.7.1994 and an enquiry was instituted against him under Rule 17 of the Rules of 1991. Enquiry Officer was appointed. The respondent was given a notice to submit his explanation by communication dated 19.7.1994. The Enquiry Officer conducted the enquiry and found the charges proved. The enquiry report was submitted to the disciplinary authority. On 18.8.1994 a show cause notice was

issued to respondent Mewa Singh accompanied with a copy of the enquiry report. After hearing the arguments of both the sides, the Executive Officer of the petitioner bank vide order Annexure-3 dated 8.10.1994 dismissed the respondent from service by exercising powers under Rule 17(1)(d) of the Rules of 1991. Being dissatisfied with the order dated 8.10.1994 dismissing him from service, the respondent preferred an appeal under Rule 18 of the Rules of 1991 long after the period of limitation had expired. When the appeal was not considered, the respondent preferred a writ petition being Civil Writ Petition No. 1489/1996 wherein this Court vide order dated 17.5.1996 directed the appellate authority to decide the appeal on merits. The appeal preferred by the respondent was dismissed by the Appellate Authority vide order dated 28.2.1997. Being dissatisfied, the respondent filed an application under Section 75 of the Rajasthan Cooperative Societies Act, 1965 (hereinafter in short the Act of 1965) before the Joint Registrar, Cooperative Societies Act. The Joint Registrar, Cooperative Societies, Bikaner dismissed the said application by order dated 12.11.1999. The respondent employee thereafter preferred a revision to the State Government under Section 128 of the Act of 1965. The said revision was allowed by the Hon"ble State Minister, Government of Rajasthan, Jaipur by order Annexure-7 dated 20.3.2001 and the impugned order passed by the petitioner bank dismissing the respondent from service was set aside and quashed and he was directed to be reinstated in service with all consequential benefits. The petitioner bank has approached this Court assailing the said order Annexure-7 dated 20.3.2001 passed by the Minister of State in exercise of the revisional powers by way of the instant writ petition.

3. The principal ground of challenge raised by Mr. Rajesh Joshi, learned counsel for the petitioner to the order under challenge is based on the judgment dated 12.9.2013 rendered by the coordinate bench in S.B.C. Writ Petition No. 1330/2002. On the strength of the above decision, it is contended that as this Court has held that exercise of powers by the Revisional Authority under Section 128 of the Act is impermissible in cases where the order is passed by the Managing Director or the Executive Officer of the Bank in the capacity of the Administrative Authority. Thus, it is contended that the impugned order cannot be upheld as being grossly illegal and without jurisdiction.

4. Per contra Mr. Moti Singh, counsel for the respondent vehemently opposed the submissions advanced by the counsel for the petitioner and contends that Hon"ble Minister, Cooperative Department rightly and justly exercised the revisional powers vested in the State under Section 128 of the Act of 1965 and appropriately quashed the punishment of dismissal imposed upon the respondent employee by the Disciplinary Authority as the same was bad in the eye of law. He, therefore, prays that no inference is called for in the impugned order and the writ petition deserves to be dismissed.

5. Heard and considered the arguments advanced at the bar. Perused the material available on record.

6. It is not in dispute that the respondent employee did not avail the available remedy under either the writ jurisdiction of this Court or the Civil Court to challenge the order passed by the Appellate Authority. Instead he invoked Section 75 of the Act of 1965 by preferring an application before the Joint Registrar. Thereafter, when he could not succeed in the said proceedings, he filed the revision before the State Minister, Cooperative Department under Section 128 of the Act. This Court considered the scope of the Minister's revisional powers in similar circumstances whilst deciding the Writ Petition No. 1330/2002 (Managing Director, Ganganagar Central Cooperative Bank Limited, Sriganganagar Vs. State of Rajasthan and Ors.) and conclusively held that revisional powers under Section 128 of the Act cannot be invoked to challenge the order passed by the Managing Director or the Executive Officer of the Bank, exercising the powers as Disciplinary Authority of an employee of the cooperative society. It was held that a Disciplinary Authority not an authority subordinate to the Registrar or the State Government under the Explanation to Section 128 of the Act and therefore the Registrar or the State Government are not seized of the jurisdiction to revise the orders passed by the Managing Director, CCB in the capacity of Disciplinary Authority. The Explanation to the Section 128(1) makes it clear that for the purpose of this sub-section, the Assistant Registrar, Deputy Registrar and Joint Registrar only while exercising all or any of the powers of the Registrar under this Act shall be deemed to be subordinate to the Registrar/or the State as the case may be. These officers would be subordinate to the Registrar or the State Government and the order passed by them would be subject to challenge in the revisional powers referred to in Section 128(1) of the Act only when they act under the situations set out in the Explanation and not otherwise.

7. Evidently and apparently, the powers of revision under Section 128 of the Act can only be exercised against the orders passed by the authorities while acting under the Explanation to Section 128(1) of the Act. Since the Managing Director or the Executive Officer of the Bank whilst exercising the powers of the Disciplinary Authority of the society's employees do not act under the provisions of Section 128, it is apparent that any order of this nature cannot be challenged before the Registrar or the State by invoking Revisional jurisdiction under Section 128 of the Act. Furthermore the Appellate Authority dismissed the appeal of the employee way back in the year 1997 whereas the revision was preferred by him after a delay of 4 years. No justification is reflected in the impugned order as to why the revision was entertained after a delay of four years. In this view of the matter, this Court is of the opinion that the order dated 20.3.2001 Annexure-7 is grossly illegal and without jurisdiction and deserves to be quashed and set aside.

8. Accordingly, the writ petition is allowed. The impugned order Annexure-7 dated 20.3.2001 is hereby quashed and set aside. No order as to costs.