
(1996) 08 AHC CK 0115
In the Allahabad High Court
Case No : C.M.W.P. No. 8595 of 1987

Gaya Prasad Sharma

APPELLANT

Vs

U.P. Co-operative Institutional Service Board and Others

RESPONDENT

Date of Decision : 05-08-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 3 UPLBEC 1820

Hon'ble Judges : R.K. Singh, J;D.S. Sinha, J

Bench : Division Bench

Advocate : R.S. Kushwaha, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—Heard learned Counsel for the parties.

2. The Petitioner was clerk in District Co-operative Bank, Budaun. Annexure-1 to the supplementary affidavit indicates that he was called upon to function as Incharge of a Branch on temporary basis.

3. By the impugned order, he has been reverted to his original post of clerk. Hence this petition.

4. Learned Counsel for the Petitioner contends that the impugned order of reversion is bad in law inasmuch as no opportunity was given to Petitioner before passing the same. The learned Counsel representing the Respondents points out that the Petitioner did not have any legally cognizable and judicially enforceable right to hold the post of Incharge, and, as such, no opportunity was required to be given before passing the impugned order. He also points out that under the "provisions of U.P. Co-operative Societies Employees" Service Regulations, 1975 (IVth Amendment) no promotion could be granted without prior approval of the U.P. Co-operative Institutional Service Board, Lucknow, and if the promotion is granted without such approval, it cannot last for more than six months. In the instant case, no approval, as aforesaid, was obtained. Therefore, the promotion

of the Petitioner could not last beyond a period of six months.

5. From the perusal of Annexure-1 to the supplementary affidavit, it is absolutely clear that the Petitioner was called upon to function as Incharge wholly on temporary basis. Thus, he had no legal right to hold the post permanently. In view of the fact that the impugned order reverting the Petitioner on his parent post of clerk did not affect his any legal right, no opportunity was required to be given. Apart from this, there is no material before the Court to show that requisite approval for the promotion of the Petitioner was obtained from the U.P. Co-operative Institutional Service Board, Lucknow. In the absence of requisite approval, his appointment on the post of promotion could not last beyond a period of six months.

6. Therefore, in the considered opinion of the Court, it is not a fit case for interference by this Court in exercise of its special and extraordinary writ jurisdiction under Article 226 of the Constitution of India. In the result the petition fails, and is hereby dismissed. However, there is no order as costs.