
(2003) 01 MP CK 0055

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 1340/91

Gramin Vidyut Sahkari Samiti Maryadit

APPELLANT

Vs

Devideen Patel and Another

RESPONDENT

Date of Decision : 02-01-2003

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (2003) 2 MPHT 58 : (2003) 3 MPLJ 216

Hon'ble Judges : K.K. Lahoti, J

Bench : Single Bench

Advocate : Aditya Adhikari, for the Appellant; Kamla Verma, for the Respondent

Final Decision : Allowed

Judgement

K.K. Lahoti, J.

Petitioner, aggrieved by award of Labour Court, Jabalpur, in Case No. 98/99, ID Reference (Devideen Patel Vs. Junior Engineer, Gramin Vidyut Sahkari Samiti Maryadit, Amarpatan, District Satna), has filed this petition. By impugned award dated 19-4-90, the Labour Court allowing the reference, directed that the respondent be reinstated with backwages.

The contention of learned Counsel appearing for petitioner is that the Labour Court, Jabalpur had absolutely no jurisdiction or authority to entertain the dispute in respect of the termination of the services of the respondent. In this regard, reliance is placed by the petitioner on a judgment of Apex Court in R.C. Tiwari Vs. M.P. State Co-operative Marketing Federation Ltd. and others, and two judgments of this Court in Vindhyachal Super Thermal Power Project, Sidhi Vs. Presiding Officer, Labour Court, Sidhi [1999 (2) LLN 413], and C.O.D. Employee Co-operative Society, Jabalpur v. Presiding Officer, Labour Court, Jabalpur [1999 (2) LLN 415] and it is submitted that in view of the settled position by the Apex Court and this Court, Labour Court was having no jurisdiction to entertain and decide the reference.

Learned Counsel appearing for respondent supports the order and contends that Labour Court has jurisdiction to entertain the reference and has rightly allowed the aforesaid reference. She further submits that in view of the Full Bench judgment of this Court in *Rashtriya Khadan Mazdoor Sahkari Samiti Ltd. Vs. Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court* (1975 MPLJ 583), the dispute was rightly entertained and decided by the Labour Court and the Labour Court was having jurisdiction to decide the reference which has been rightly been done by the Labour Court. Learned Counsel appearing for respondent relies on a judgment of Madras High Court in *Workmen v. Management of India Forge & Drop Stampings Ltd.*, reported in 1996 (III) LLJ 508, and submits that the Labour Court has jurisdiction to decide the dispute.

The Apex Court has settled this controversy in *R.C. Tiwari (supra)*, wherein the Supreme Court held :--

"3. The learned Counsel for the petitioner seeks to place reliance on Section 64 of the Act dealing with disputes referable to the arbitration and contends that the dispute from dismissal from service of the employee of the society being not one of the disputes referable to arbitration under the Societies Act, the award of the Deputy Registrar is without jurisdiction. He relied on the decision of this Court in *Co-operative Central Bank Ltd. and Others Vs. Additional Industrial Tribunal and Others*, . He also places reliance on Section 93 of the Societies Act which states that nothing contained in the Madhya Pradesh Shops and Establishments Act, 1959, the M.P. Industrial Workmen (Standing Orders) Act, 1959 and the M.P. Industrial Relations Act, 1960 shall apply to a society registered under this Act. By necessary implication, application of the Act has not been excluded and that, therefore, the Labour Court has jurisdiction to decide the matter. We find no force in the contention. Section 55 of the Societies Act gives power to the Registrar to deal with disciplinary matters relating to the employees in the society or a class of societies including the terms and conditions of employment of the employees. Where a dispute relates to the terms of employment, working conditions disciplinary action taken by a society, or arises between a society and its employees, the Registrar or any officer appointed by him, not below the rank of Assistant Registrar, shall decide the dispute and his decision shall be binding on the society and its employees. As regards power u/s 64, the language is very wide, viz., "notwithstanding anything contained in any other law for the time being in force any dispute touching the constitution, management or business of a society or the liquidation of a society shall be referred to the Registry by any of the parties to the dispute". Therefore, the dispute relating to the management or business of the society is very comprehensive as repeatedly held by this Court. As a consequence, special procedure has been provided under this Act. Necessarily, reference u/s 10 of the Societies Act stands excluded. The judgment of this Court arising under Andhra Pradesh Act has no application to the facts for the reason that under that Act the dispute did not cover the dismissal of the servants of the society for which the Act therein was amended,

Admittedly, there is a finding recorded by the Deputy Registrar upholding the misconduct of the petitioner. That constitutes *res judicata*. No doubt, Section 11, CPC does not in terms apply because it is not a Court, but a Tribunal, constituted under the Societies Act is given special jurisdiction. So, the principle laid down thereunder *mutatis mutandis* squarely applies to the procedure provided under the Act. It operates as *res judicata*. Thus, we find that the High Court is well justified in holding that the Labour Court has no jurisdiction to decide the dispute once over and the reference itself is bad in law."

Relying on the aforesaid Apex Court's decision, this Court in Vindhyaachal Super Thermal Power Project (*supra*) and C.O.D. Employees Co-operative Society (*supra*) has also held that the Labour Court is having no jurisdiction to decide such reference. In view of the aforesaid settled position of law, it is held that the Labour Court was having no jurisdiction to decide the reference in respect of termination of the services of an employee of co-operative society. In this case, it is not disputed before me that Gramin Vidyut Sahkari Samiti Maryadit, Ramnagar, Amarpatan, District Satna is a co-operative society registered under the M.P. Co-operative Societies Act, 1960. In view of the aforesaid, it is held that the Labour Court was having no jurisdiction to decide the reference. Consequently, award passed by Labour Court dated 19-4-90 so far as it relates to respondent Devideen in Case No. 98/99, ID Reference, is concerned, is quashed.

As at the relevant time, the Labour Court, in view of Full Bench judgment in Rashtriya Khadan Mazdoor Sahkari Samiti Ltd. (*supra*), was having jurisdiction, but in view of the Apex Court judgment in R.C. Tiwari (*supra*), the order passed by the Labour Court has been quashed, in the circumstances, respondent will be at liberty to raise dispute u/s 55 or Section 64 of M.P. Co-operative Societies Act, 1960, before appropriate authority within a period of three months from today and, in case, the respondent Devideen files such dispute the appropriate authority will entertain the dispute without considering the question of limitation. In the peculiar circumstances, and in change of state of law because of the decision of the Supreme Court, it is directed that the petitioner will not be entitled to get back the amount paid to respondent Devideen in compliance of order passed by this Court on 23-4-91 which was affirmed on 15-1-92.

With the aforesaid liberty, this petition is allowed. Order passed by Labour Court dated 19-4-90, so far as it relates to respondent Devideen, is quashed. No order as to costs. If any security amount deposited by the petitioner in this petition before this Court, that may be refunded to the petitioner.