
(2008) 02 PAT CK 0005
In the Patna High Court
Case No : CWJC No. 3498 of 2002

Kamakhya Narayan Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 15-02-2008

Acts Referred:

Bihar Co-operative Societies Act, 1935 — Section 48

Citation : (2008) 3 PLJR 520

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Hussain, J.—Heard learned counsel for the petitioner and learned counsel for the State. This writ petition has been filed for quashing order dated 3.11.2001 (annexure-1) by which Appeal No. 198 of 2000 was dismissed and also for quashing order dated 22.6.1999 (annexure-2) of the Administrator, Bihar State Co-operative Land Development Bank Limited, Patna, issued by the Deputy Managing Director, Bihar State Co-operative Land Development Bank Limited, Patna by which his service was terminated.

2. It appears that petitioner was Branch Manager, Land Development Bank, Dinara. He was put under suspension and a departmental proceeding was initiated against him on 18.3.1997 on the basis of charges of irregularity in loan disbursement to the farmers (loanee members) and also due to disobedience by way of non-responding to the repeated official letters of the higher authorities. It appears that notices were issued to the petitioners and before filing his first show cause he filed CWJC No. 10780 of 1998 which was disposed of by order dated 26.3.1999 directing the authorities concerned to decide the departmental proceeding within three months and if the departmental proceeding is not disposed of within three months the order of petitioner's suspension shall stand vacated. It was also directed by this court that if the petitioner does not co-operate in the proceeding it should be decided ex parte.

3. Thereafter notices were issued and published in the daily newspaper for the petitioner about his case before the Inquiry Officer, whereafter first show cause was submitted by the petitioner and the Enquiry Officer submitted his findings in the inquiry report. A second show cause notice was issued to the petitioner alongwith the said inquiry report on 10.6.1999 and second show cause was submitted by the petitioner on 19.6.1999. It transpires that thereafter the impugned order was passed by the authorities concerned on 22.6.1999 (annexure-2).

4. Against the said order the petitioner filed CWJC No. 8850 of 1999 and by order dated 4.7.2000 (annexure-3) the said writ petition was disposed of with following observations:-

"Mr. Jha appearing for respondent-Bank has submitted that the petitioner has alternative remedy by way of appeal before the Registrar, Co-operative Societies. In view of the availability of alternative remedy this writ petition is dismissed with liberty to the petitioner to file appeal before the appellate authority within two weeks, which if filed within the said time, the appellate authority shall consider to condone the delay, if any, in filing the appeal."

5. It appears that in view of the aforesaid order of this court an appeal was filed by the petitioner before the Registrar, Co-operative Societies, Bihar, Patna bearing Appeal No. 198 of 2000 but by order dated 9.10.2001, the said appeal was dismissed with following observations:-

"On the basis of the above, I am of the opinion that according to the provisions of Section 48 of the Bihar Co-operative Societies Act, the submission made by the learned counsel for the Respondent-Bank before the Hon"ble High Court that the Registrar, Co-operative Societies is a competent authority to consider an appeal arising out of the dismissal order of the Respondent-Society against its paid servants is not correct. Hence, the case is dismissed, as this court has no jurisdiction in this matter."

6. Against the said order passed in appeal as well as against the original order of termination of petitioner's service the petitioner has filed the instant writ case. This matter was heard on 3.12.2004 by the same Bench which heard the earlier writ and the earlier order dated 4.7.2000 passed in CWJC No. 8850 of 1999 was recalled and the matter was directed to be placed before appropriate Bench dealing with cases of dismissal of Bank's service with the following observations:-

"From the said order of the Registrar, Co-operative Societies (Annexure-1) it appears that the Registrar has held that in view of the provisions of the Bihar Co-operative Societies Act, 1935, he has no power to hear the appeal directed against the order of dismissal of an employee rather Section 48 of the said Act debars the Registrar, Cooperative Societies from hearing any such grievance of an employee of a Co-operative Societies. Learned counsel for the Bank has also conceded that the Registrar, Co-operative Societies has no power to hear the appeal."

7. In the said circumstances, this matter has been placed before this court for considering the matter with respect to dismissal of petitioner from the Bank service.

8. From the averments made by learned counsel for the parties and the materials on record including the impugned order it transpires that the authority concerned had considered two charges against the petitioner, namely irregularity in disbursement of the loan amount to the loanee members of the Bank, namely farmers and non-responding to repeated official letters of the higher authorities. He had failed to produce the disbursement voucher file which was the most important document to show that the loan in form of assets have been disbursed for helping the farmers in their farming and to show the acceptance of the said disbursement by the farmers. It is also apparent that there were definitely grave irregularities in the loan disbursement of the Bank and petitioner being in-charge of the Bank, the entire responsibility was upon him, but even after being aware of all the events, he did not take any step nor he cared for the said irregularities. It is specifically found that the petitioner did not maintain the disbursement voucher file properly nor he produced it even during inquiry which affected the disbursement of loan and return of the documents to the loanee members and also realisation of the loan amount from the farmers which caused huge loss to the Bank as well as to its reputation. From the impugned order dated 22.6.1999 (annexure-2), it is quite apparent that the authorities concerned considered the matter in detail alongwith the objections raised by the petitioner and decided them by reasoned orders. This court does not find any illegality in the impugned orders of the authorities concerned which were passed after following the rules which were applicable to the instant case. Accordingly, this writ petition is dismissed.