

(2007) 02 MAD CK 0288

In the Madras High Court

Case No : W.A. No. 2728 of 2003 and WA. M.P. No. 4255 of 2003

Kanyakumari District Central Cooperative Bank

APPELLANT

Vs

K. Durairaj and Others

RESPONDENT

Date of Decision : 27-02-2007

Acts Referred:

Co-operative Societies Rules — Rule 149(6)
Industrial Disputes Act, 1947 — Section 25H

Citation : (2007) 2 CTC 427 : (2007) 3 MLJ 177

Hon'ble Judges : S. Tamilvanan, J; F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : S.M. Subramaniam, for the Appellant; K. Ravichandrababu, for Respondents Nos. 1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

F.M. Ibrahim Kalifulla, J.—The appellant is a Cooperative Society. The challenge is to the order of the learned Single Judge dated 19.8.2002 passed in W.P. No. 9961 of 1996. Respondents 1 to 4 challenged the order of termination dated 25.6.1996. The said order merely reads as under:

Appointment orders under reference No. 2 are hereby cancelled as per the advice of the Registrar under reference No. 1.

2. When the challenge was made in the writ petition on behalf of the appellant as well as the fifth and sixth respondents herein, the stand taken was that respondents 1 to 4 were not sponsored by the Employment Exchange and therefore the appellant was directed to remove the respondents 1 to 4. It is in the above said background, respondents 1 to 4 who claimed to be appointed in March 1996 came to be removed from service on 25.6.1996. It is also relevant to note that respondents 1 to 4 were appointed as Supervisors on temporary basis in the year 1973 and were ousted from service for want of vacancy in the year 1978. At that point of time, viz. in the year 1978, respondents 1 to 4 did not challenge the very termination of employment. In the above said background,

learned Single Judge noted that re-employment of respondents 1 to 4 came to be made by applying Section 25H of the Industrial Disputes Act and therefore their subsequent employment as from the month of April 1996 cannot be found fault on the ground that their names were not sponsored by Employment Exchange. In other words by virtue of the operation of the statutory provision, namely that respondents 1 to 4 had acquired a statutory right to get re-employment, after their initial order of termination, as and when the vacancies arose on a future date, the question of sponsoring their names through employment exchange did not arise. Therefore, the said ground raised on behalf of the appellant was found to be unsustainable. The learned Single Judge considered the further submission made on behalf of the appellant by relying upon Rule 149(6)(c) of the Cooperative Societies Rules. The said rule only provides for termination of service of an employee before the expiry of six months of his service, if his work or conduct have not been satisfactory and that no appeal would lie against an order terminating the probation of an employee during the said period of six months. Since in the case in hand, termination was not on the ground of unsatisfactory performance of work or conduct, the application of Rule 149(6)(c) cannot be made. Therefore, the said contention of the appellant was also rejected by the learned Single Judge. We are in full agreement with the conclusion of the learned Single Judge on the above referred to contentions raised on behalf of the appellant. We are not in a position to take a different view than the one taken by the learned Single Judge. Under such circumstances, the termination of the service of respondents 1 to 4 as from 25.6.1996 has been found to be unjustified and invalid. The re-employment ordered by the learned Single Judge with the consequential benefits as directed therein is perfectly valid and we uphold the same. The Writ appeal fails and the same is dismissed. No costs. Consequently, WA.MP. No. 4255 of 2003 is also dismissed.