(2005) 04 MP CK 0017

In the Madhya Pradesh High Court

Case No : Writ Petition No. 5524 of 2004

Mahakoushal Kshetriya Gramin Bank APPELLANT

Vs

Appellate Authority and Others RESPONDENT

Date of Decision : 19-04-2005

Acts Referred:
Payment of Gratuity Act, 1972 — Section 2
Regional Rural Banks Act, 1976 — Section 11, 13D, 16, 17, 19

Citation : (2006) 110 FLR 796 : (2006) 1 LLJ 533 : (2005) 3 MPLJ 7

Hon'ble Judges : Arun Mishra, J

Bench : Single Bench

Advocate : Sanjay Verma, for the Appellant; P.C. Chandak and U. Maheshwari, for the Respondent

Final Decision : Dismissed

Judgement

Arun Mishra, J.

In this petition, petitioner has assailed an order passed by the Controlling Authority and Appellate Authority. The main ground to assail the order is that Appropriate Government is not the Central Government, hence the Asst. Labour Commissioner, Central had no jurisdiction to deal with the matter.

The submission has been rejected by the Appellate Authority for the reasons mentioned in Para 5 of the order. Following reasons have been mentioned to reject the submissions:

5. The facts and arguments reveal that basic question requires to be finalized in this appeal is whether the Central Government is the Appropriate Government u/s 2(a) of the Payment of Gratuity Act, 1972 and whether the appellant''s establishment belonging to, or under the control of the Central Government. The Controlling Authority in his order dated October 8, 2002 stated that the Mahakoushal Kshetriya Gramin Bank has been formed under the Regional Rural Bank Act, 1976 and it is incorporated in the Act that the Rural Bank shall be

established by the Central Government on the request of Commercial Bank which shall sponsor such proposal and shall be called the sponsor bank. Further the Controlling Authority stated that Act provides that RRB shall be guided by the directives of the Central Government, 50% of the issue capital is subscribed by the Central Government. The sponsor bank has control over the RRB in relation to their business and administration.

The appellant argued that the sponsor has the control of over the RRB. i.e. Mahakoushal Kshetriya Gramin Bank and the RRB Board has full power to control the bank and not any other authority, as per Section (sic) 29 of RRB Act. I find that RRB including appellant bank is constituted under the RRB Act, 1976 which prescribes under various provisions that the Central Government would have and would exercise various types of controls. Thus u/s 3 Central Government establishes Regional Rural Banks, u/s 4 Central Government specify the area and place of head office by notification, u/s 5 it increases or reduces authorized capital, u/s 6 it fixes issued capital and 50% is subscribed by Central Government. The Board increases or decreases issued capital only after approval of Central Government, u/s 9 the Central Government has the power to increase or decrease number of Directors, u/s 11 approval of Central Government is necessary in respect of appointment of Chairman in certain circumstances, Section 16 gives power to Central Government for determining fees and allowances of every Director of the Board, Section 17 provides that central Government would determine the remuneration or wages of staff and officers of the Rural Bank, the date of closure of account may be altered by the Central Government u/s 19. The Central Government makes provisions for the closing and balancing of accounts and matters relating to the books of concerned year. Auditor of the company receives remuneration as fixed by the Central Government. The Central Government examines the auditor''s report on the working activities of RRB u/s 20 and it lays down such report before the Parliament. The Central Government u/s 23-A amalgamate two or more RRBs, u/s 23-D the Central Government has powers to give directions, u/s 29 the Central Government makes rules for implementation of various provisions of RRB. The Central Government u/s 30 approves regulations.

It is observed that although there is a Board of Directors, a sponsor Bank and there is a role of State Government in the general working, administration and implementation of policies yet there is overall control of the Central Government over the RRB as described in Para 5 above. It is the Finance Ministry and Reserve Bank of India which controls the entire working of RRB. The salary, wages and service conditions of employees of RRB are finalized in the Finance Ministry in consultation with Reserve Bank of India. At any occasions RBI employees raise industrial disputes which are considered and conciliation take place in the Central Industrial Machinery and the Labour Court or Tribunal constituted by the Central Government pronounces the awards. There are RRBs in every State. Nationalised Banks under the guidelines of Central Government and RBI, have created the Regional Rural Banks in various district of the country under th over-all umbrella control of the Central Government. A small RRB, the Mahakoushal Kshetriya Gramin Bank can not be seen as independent business organization out of control of Central Government.

In view of these facts, statutory provisions and their implications the Regional Rural Banks belong to and certainly under the control of the Central Government. The Central Government controls entire working of the Regional Rural Banks, finances, policies and service conditions of staff and officers. I, therefore, hold that Central Government would be Appropriate Government for appellant bank.

I have heard the learned counsel for the parties at length. The Apex Court in Prathama Bank, Head Office, Moradabad, through its Chairman Vs. Vijay Kumar Goel and Another, , has laid down that Regional Rural Bank is an instrumentality of Central Government. As the petitioner Bank is admittedly the Regional Rural Bank, in my opinion, the application was rightly filed before the Assistant Labour Commissioner, Central, the Controlling Authority under the Payment of Gratuity Act, thus the only submission raised falls down.

Writ petition is dismissed. Parties to bear their own costs as incurred.

C.C. as per rules.