(1999) 05 AHC CK 0066

In the Allahabad High Court

Case No : Civil Misc. Write Petition No. 21462 of 1999

Mahaveer Prasad Sharma APPELLANT

Vs

Cane Commissioner, U.P. and others RESPONDENT

Date of Decision : 24-05-1999

Acts Referred:

Uttar Pradesh Cane Co-operative Service Regulations, 1975 — Regulation 2, 27
Uttar Pradesh Co-operative Societies Act, 1965 — Section 122

Citation : (1999) 3 AWC 2440 : (1999) 2 UPLBEC 1407

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : N.L. Pandey, for the Appellant; S.C., Manish Umrao and P.M.N. Singh, for the Respondent

Judgement

D.K. Seth, J.—A charge-sheet was issued to the petitioner on 8th July, 1997, pursuant to which an enquiry was proposed. By an order dated 9th October, 1998, the petitioner was punished by the Committee of Management. This order is contained in Annexure-6 to the writ petition. Mr. N.L. Pandey, learned counsel for the petitioner contends that the petitioner had retired on 30th June. 1998. The crushing season 1997-98 ended on 15th July, 1997. In view of Regulation 27 of the U. P. Cane Co-operative Service Regulation. 1975. the disciplinary proceedings should be deemed to have been automatically dropped, if it is not completed within the same crushing season expiring on 15th July, 1997. Therefore, the impugned order is incompetent and is liable to be quashed.

2. Mr. Manish Umrao, holding brief of Mr. P.M.N. Singh, learned counsel for the respondents contends that since the charge-sheet was issued on 8th July, 1997, namely, seven days before the end of the crushing season, i.e., 15th July, 1997, therefore, it cannot be said to have been automatically dropped after 15th July, 1997. According to him, the season 1997-98 may be taken to be the crushing season for the purpose of Regulation 27 of the said Regulation in this case. Therefore, the order is competent and has been rightly passed.

3. I have heard both the counsel at length.

4. Crushing season has been defined in the said Regulation in Regulation 2 (n) in the following manner :

"Crushing season" means the period as defined in U. P. Sugarcane (Regulation of Supplies and Purchases) Act, 1953 (U. P. Act No. XXIV of 1953)."

5. U. P. Sugarcane (Regulation of Supplies and Purchases) Act, 1953, from where the definition of crushing season has been borrowed in Regulation 27 provides in Section 2 (i) as follows :

"Crushing season" means the period beginning on the 1st October in any year and ending on the 15th July next following."

6. Thus, it appears that the crushing season is the period between 1st October in any year and ending on the 15th July next following. Thus, in the present case. the crushing season 1996-97 ended on 15th July, 1997 whereas the charge-sheet was issued on 8th July, 1997, namely, seven days before the end of the crushing season 1996-97. The said period cannot be taken to be a period within the meaning of Regulation 27 in view of physical impossibility. In such circumstances, it is to be looked into In a different manner.

7. In order to appreciate the situation, it is necessary to refer to Regulation 27, which prescribes as follows :

"27. Disciplinary proceedings.--In the event of a complaint against any member of the season staff the Secretary of the Union shall make a preliminary inquiry and if he is satisfied that a prima facie case is established against the person concerned, he shall intimate the same to him in the form of charges and call for his explanation to be submitted within a specified time. The Secretary of the Union shall examine the explanation, documents and connected records and submit his final report along with definite recommendations to the Committee of Management of the Union for passing final order in the case. In case the explanation is not received within the specified time, the Secretary shall submit his final report to the Committee of Management on the basis of material already on the file. These proceedings shall be of a summary nature and the Secretary should not take more than a month to complete the same. The Committee of Management should also arrange to dispose of the case within one month of the final report from the Secretary, in case of default on the part of Secretary of Cane Union or the Committee of Management in not completing the disciplinary proceeding against a seasonal staff by the end of crushing season, the same shall be deemed to have been automatically dropped."

8. Regulation 27 thus shows that the inquiry so initiated has to be completed within one month by the Secretary. Then after the report of the Secretary, the Committee of Management has to take a decision within one month. But this one month is not mandatory but directory. At the same time, this one month indicates that it has to be expeditiously dealt with. This one month may be the

inner limit. But outer limit has been specifically provided in Regulation 27 itself, where it has been provided that in case of default on the part of the Secretary or on the Committee of Management in not completing the disciplinary proceeding against a seasonal staff by the end of the crushing season, in that event, the disciplinary proceeding should be deemed to have been dropped automatically. The expression used "automatically dropped" clearly indicates when read along with phrase "deemed to have been" then no other order is necessary and it is dropped automatically at the end of the crushing season.

9. The contention of Mr. Pandey to the extent that the inquiry ought to have been concluded within 15th July, 1997, though technically seems to be sound but the same is practically impossible. If it is so taken when even the inner limit of one month by the Secretary and another one month by the Committee of Management would not fit in. Thus, though the inquiry was initiated by the issue of the charge-sheet on 8th July, 1997 and if we take the inner limit of one month by the Secretary and one month by the Committee of Management, then it would overlap the following crushing season. Thus, when this inner limit overlaps, the crushing season, following has to be taken to be the outer limit. Rules of interpretation cannot be technically interpreted so as to frustrate the purpose and object. An interpretation which furthers the purpose and object of the provision is to be preferred to the technically propounded interpretation. Thus, in this case, the season 1997-98 has to be taken as to the crushing season for the purpose of Regulation 27 as the outer limit for dropping of the proceedings.

10. In the present case, admittedly, even the following crushing season, namely, 1997-98 ended on 15th July, 1998 within which the petitioner had retired on 30th June. 1998. Thus, there were two eventualities--one that the petitioner had retired on 30th June, 1998 and the crushing season had also ended on 15th July, 1998, whereas the order was passed on 9th October, 1998. Thus, the order having been passed after the expiry of the crushing season squarely attracts the mischief provided in Regulation 27.

11. Regulation 27 as observed earlier, is not mandatory with regard to the inner limit of one month and one month so far as Secretary and Committee of Management respectively are concerned. But from the scheme of the said provision, it cannot be said that the outer limit is directory. The language used, as observed earlier, clearly indicates that it was with the object of making it mandatory such a provision was incorporated, when the Legislature clearly prescribes that if on account of any default the proceedings could not be completed by the end of the crushing season, in that event such proceedings shall be deemed to have been dropped automatically. A plain reading of the said provision clearly indicates that there is no scope of ambiguation and it cannot be interpreted in any other manner. The expression used by the Legislature has to be interpreted on the simple meaning attached to it. The High Court in exercise of writ jurisdiction can interpret a Legislation. But it cannot encroach upon the domain of the Legislature, namely to legislate. If any other interpretation is

given. In that event, the same would be contrary to the purpose and object and. thereby, making out a different purpose from the provision provided in Regulation 27, which has a statutory force since framed in exercise of Section 122 of the U. P. Co-operative Societies Act. 1965, by Cane Commissioner, the authority constituted under the Government through Notification dated 12th January, 1970. Thus, the above provision cannot be interpreted in the manner except as I propose to. There is no scope for the Court to accept the contention of Mr. Manish Umrao, holding brief of Mr. P.M.N. Singh, learned counsel for the respondents that the next Crushing season had begun on 1st October, 1997, therefore, the order passed on 9th October. 1998 nine days exceeding one year, would not attract the mischief of Regulation 27. Inasmuch as even if the crushing season had started on 1st October. 1998, but the same comes to an end on 15th July, 1998 and then from 1st October. 1998, the crushing season 1998-99 begins, which is altogether another crushing season. The one year cannot be imported to interpret the same. For all these reasons. It appears that the impugned order contained in Annexure-6 to the writ petition, is wholly incompetent and void since the disciplinary proceeding stood automatically dropped on the expiry of 15th July, 1998, in terms of Regulation 27.

12. In the result, the writ petition succeeds and is hereby, allowed. A writ of certiorari do issue accordingly quashing the order contained in Annexure-6 to the extent it inflicts punishment pursuant to the disciplinary proceedings without affecting the petitioner''s superannuation on 30th June, 1998.