

(1963) 07 KL CK 0016
In the High Court Of Kerala
Case No : Writ Appeal No. 130 of 1962

Malabar Co-operative Central Bank Ltd., Kozhikode	APPELLANT
Vs	
State of Kerala and Others	RESPONDENT

Date of Decision : 05-07-1963

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1)(d)

Citation : (1963) KLJ 694

Hon'ble Judges : M.S. Menon, C.J;M. Madhavan Nair, J

Bench : Division Bench

Advocate : K.V. Surianarayana Iyer and T.L. Viswanatha Iyer, for the Appellant;
K. Velayudhan Nair for 3rd Respondent, for the Respondent

Final Decision : Dismissed

Judgement

M.S. Menon, C.J.—The petitioner in O.P. No. 2583 of 1962, a co-operative society, is the appellant before us. An industrial dispute between the society and its workmen was referred for adjudication to the Industrial Tribunal, Kozhikode, by the Government of Kerala u/s 10 (1) (d) of the Industrial Disputes Act, 1947. Ext. P. 3 is the order of reference. It shows that the matters to which the dispute relates are:

1. Wage rates, allowances and fitment,
2. Promotion.
3. Gratuity and Pension.
4. Medical aid.
5. Recruitment and probation.
6. Retirement.

2. The sole question for determination in the appeal is whether the reference is incompetent because of section 51 of the Madras Co-operative Societies Act,

1932. The portion of section 51 on which counsel for the appellant relies reads as follows:

(1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises-

* * * * *

(c) between the society or its committee and any past committee, any officer, agent or servant or any past officer, past agent or past servant, or the nominees, heirs or legal representatives of any deceased officer, deceased agent or deceased servant of the society,

such dispute shall be referred to the Registrar for decision.

According to him the section will apply to the dispute referred, and the provisions of the Industrial Disputes Act, 1947, will have no application in view of section 31 (1) of the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956. That sub-section reads as follows:

If, immediately before the commencement of this Act, there is in force in any State any Provincial Act or State Act relating to the settlement or adjudication of disputes, the operation of such an Act in that State in relation to matters covered by that Act shall not be affected by the Industrial Disputes Act, 1947, as amended by this Act.

3. In order to enable section 51 of the Madras Co-operative Societies Act, 1932 to exclude the provisions of the Industrial Disputes Act, 1947, on the basis of section 31 (1) of the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956, the dispute concerned must be a dispute "touching the business" of a society. It is not possible to hold that such is the case.

4. Two decisions which are of assistance are: Co-operative Milk Societies Union Ltd. Vs. State of West Bengal and Others, and South Arcot Co-operative Motor Transport Society Ltd. V. Syed Batcha and others (A. I. R. 1961 Mad. 217). In the former case Mukharji J. held that a dispute between a co-operative society and its workmen could not relate to the actual business of the society and could not, therefore, touch the business of the society though such disputes may ultimately affect the business of the society; and that so long as a dispute is an industrial dispute it would be governed by the Industrial Disputes Act, 1947, even though the dispute was between a co-operative society and its workmen. In the latter case Ramachandra Iyer J. relied on the Calcutta decision and held that a claim for retrenchment compensation by a workman against a co-operative society would not come within the ambit of section 51 of the Madras Co-operative Societies Act, 1932, and that it can only be adjudged under the provisions of the Industrial Disputes Act, 1947.

5. Co-operative societies are creatures of statute, controlled by their constitution,

and concerned with their contracts. Industrial disputes stem, not from the subtle refinements of contractual obligations, but from the rougher jurisprudence of social justice and readjustment. The uplands of the Industrial Tribunals are out of bounds to the Registrar of co-operative societies. The appeal fails and is dismissed. No costs.