
(2014) 05 MP CK 0023
In the Madhya Pradesh High Court
Case No : WP No. 12442/2008

M.P. Rajya Sahakari Bank Maryadit

APPELLANT

Vs

N.G. Raghuvanshi

RESPONDENT

Date of Decision : 08-05-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Madhya Pradesh Co-operative Societies Act, 1960 — Section 55(2)

Citation : (2014) 05 MP CK 0023

Hon'ble Judges : Rajendra Menon, J; Anil Kumar Sharma, J

Bench : Division Bench

Advocate : Abhijit Bhowmik, Learned Counsel, Advocate for the Appellant

Final Decision : Dismissed

Judgement

1. This is a petition under Article 227 of the Constitution, whereby the M.P. Rajya Sahakari Bank Maryadit, has called in question tenability of an order Annexure-P/1 dated 22.2.2006 passed by the M.P. State Cooperative Tribunal and the order Annexure-P/8 dated 30.3.2002 passed by the Joint Registrar, Cooperative Societies, Bhopal in the matter of granting benefit of seniority and continuation of services with consequential benefit of pay fixation to the respondent/employee.

2. Facts, in brief, go to show that the respondent Shri N.G. Raghuvanshi was initially appointed as Steno-Typist (English) on probation for a period of one year w.e.f. 3.11.1991 vide order dated 24.10.1989. By another order Annexure-P/2 dated 18.12.1990; his probation period was extended by 6 months w.e.f. 3.11.1990 with a stipulation that if his probation is not confirmed, his services shall be terminated. On the ground that even during the extended period of probation, service was not satisfactory, vide order Annexure-P/3 dated 2.5.1991, service of Shri N.G. Raghuvanshi, Steno-Typist (English) was dispensed with. Dispensation of his services, led to an industrial dispute being raised by Shri N.G. Raghuvanshi and failing settlement in conciliation proceedings, dispute was referred to the Presiding officer, Labour Court No. 1, Bhopal for adjudication. An

award was passed by the Labour court on 4.11.1993 in Industrial Dispute case no. 21/92 vide Annexure-P/4 and the Labour court found that Shri N.G. Raghuvanshi has suffered a motor accident during the period of probation, because of which, he could not perform properly and accordingly, Labour court directed that the employee be again put in probation for a period of 6 months. He be put to further test and thereafter, decision be taken based on the performance, after such working on probation for a period of 6 months, the Labour court further held that for a period, from the date of his termination in the year 1991 till passing of the award on 4.11.1993, employee shall not be entitled for any back wages.

3. This award Annexure-P/4 dated 4.11.1993 passed by the Labour court was implemented by the Bank and an order Annexure-P/5 was passed on 31.12.1993 reinstating Shri N.G. Raghuvanshi, Steno-Typist (English) for a period of 6 months on probation with a stipulation that if his work is found to be satisfactory during the aforesaid period of 6 months and he passes the test, he shall be entitled for confirmation after a period of 6 months. He completed the probation satisfactorily and so also passed the test, accordingly, an order Annexure-P/6 was passed on 1.7.1994 regularizing him in service and confirming his services. However, this confirmation in service was done w.e.f. 1.7.1994 and not from initial date of appointment. After completion of period of probation satisfactorily, he raised a dispute before the Joint Registrar, Cooperation Society, u/s 55(2) of the M.P. Cooperative Society Act, 1960 and the Joint Registrar, Cooperative Society, having allowed the claim and having directed for grant of benefit of seniority in service from the initial date of appointment. An appeal was filed before the Cooperative Tribunal and the same having also been dismissed, this writ petition has been filed.

4. Shri Abhijit Bhowmik, learned counsel took us through the award passed by the Labour court and the orders passed by the Bank, as contained in Annexures-P/5 and P/6 and tried to emphasis that after the award was passed by the Labour court, the employee was appointed in services on probation for a period of 6 months and after satisfactorily completing services of 6 months and passing the written test, he has been regularized prospectively and this has been done by the Bank in accordance with law. It is said that Joint Registrar and the Tribunal have committed an error in treating the period from initial date of appointment for the purpose of granting regular appointment. It is said that after appointment of the respondent employee afresh in pursuance to award passed by the Labour court on 4.11.1993, the employee is not entitled to any benefit prior to his date of completing period of 6 months on probation satisfactorily.

5. We have considered the submissions made by Shri Bhowmik and we have taken note of the reasons given by the Joint Registrar, Cooperative Society and the Cooperative Tribunal in the matter. It is found that even though the Bank came out with a case that the employee was re-appointed afresh on a period of probation of 6 months after the award was passed by the Labour court on

4.11.1993, this fact was not correct. It was found that the employee was reinstated into the service in continuation to his initial appointment on probation and has continued on probation and thereafter, he was confirmed. The Cooperative courts have directed for regularizing him from his initial date of appointment. In doing so, we are of the considered view that the Cooperative Courts have not committed any error.

6. We have to hold so because of the reason that the initial appointment of the employee was on probation for a period of one year, thereafter, vide Annexure-P/2 dated 18.12.1990, his probation was extended for a period of 6 months and on the ground that he did not complete the period of probation satisfactorily, his services were dispensed with vide Annexure-P/3. On reference being made in the Labour court under the Industrial Disputes Act, reference has been answered by the Labour court by holding that unsatisfactory nature of service of employee during the period of probation was because of his accident and therefore, with a view to give him one more opportunity, it was directed that he be continued on probation for a period of 6 months and thereafter, action be taken for regularizing his services based on the test to be conducted and his performance. While implementing this award dated 4.11.1993 passed by the Labour court, the Bank in its order Annexure-P/5 dated 31.12.1993 did not give fresh appointment to the employee on probation for a period of 6 months. On the contrary, he was reinstated in service and in the order it is clearly held that in pursuance to the award passed on 4.11.1993, employee is reinstated on probation for a period of 6 months. Thereafter, when the order of confirmation was passed vide Annexure-P/6, it is indicated that he has been reinstated in pursuance to award passed on 4.11.1993 and during the extended period of probation of 6 months, after his reinstatement, his services is found to be satisfactorily he has passed the test and therefore, he is regularized. From the orders Annexure-P/5 and P/6 and the word "reinstated" used by the Bank, it is clear that the employee was reinstated in services on the same status which was enjoyed by him prior to 2.5.1991 when extended period of probation after first extension of 6 months granted, was terminated. That being so, the employee of reinstatement is restored back to same position which accrued to him by virtue of his initial appointment of probation for one year passed vide order dated 3.11.1991, it is a case where the employee was appointed on probation for a period of one year initially on 3.11.1991, thereafter, on 18.12.1990, probation was extended for a period of 6 months vide Annexure-P/2 and vide Annexure-P/5 the probation was further extended for a period of 6 months and completing the entire period of probation, he has been confirmed in service. Once the employee is reinstated in service and continued to work on probation and when his service is confirmed on satisfactorily completing the period of probation, he is entitled to be regularized and granted benefit of confirmation from the initial date of appointment and passing such an order based on facts that the employee was reinstated after award passed by the labour court and not reappointed afresh on probation. Cooperative courts have not committed any error warranting interference.

Concurrent orders passed by the Cooperative Courts in this regard seem to be in accordance with law and we see no reason to interfere in the matter. Petition is, therefore, dismissed.