
(1958) 12 AP CK 0013

In the Andhra Pradesh High Court

Case No : Writ Petition No. 715 of 1955

Narasimhan (K.V.)

APPELLANT

Vs

Chicacole Co-operative Central Bank Limited

RESPONDENT

Date of Decision : 16-12-1958

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1959) 1 LLJ 554

Hon'ble Judges : Chandra Reddy, C.J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Chandra Reddy, C.J.—This is a petition for the issue of a writ of certiorari to quash the order, dated 26 December 1950 of the President, Co-operative Central Bank, Ltd., Srikakulam, dispensing with the services of the petitioner.

2. The petitioner was originally appointed as supervisor in the Ganjam District Co-operative Union Bank, Berhampur, on 6 January 1936 and, after the formation of the Orissa Province in 1936, he was transferred as supervisor under the Chicacole Co-operative Central Bank, Srikakulam. Subsequently, his services were lent by the bank to the Uddanam Co-operative Marketing Society, Ltd., Kandivali, and he was appointed as manager of the said society on 13 September 1946. While working there, he was arrested on 6 June 1950 in connexion with charges of misappropriation and breach of trust alleged to have been committed by him as manager of the society. The next day, he was suspended by the society until further orders on the ground that he was arrested and released on bail on 6 June 1950. Later on, i.e., 26 December 1950, the executive committee of the abovementioned society resolved that his services should be dispensed with, evidently in view of the criminal proceedings pending against him and in view of the several irregularities said to have been committed by him. The petitioner was found guilty of the offence of misappropriation, etc., by the trial Court but on appeal he was acquitted in February 1954.

3. Thereupon, he wrote a letter to the president of the said society in which it was recited that on receipt of the order, dated 26 December 1950, he had sent two appeal petitions, dated 26 January 1951 and 4 April 1951 for appropriate action by the addressee, i.e., the president and also requesting that the addressee (president) might be pleased to reinstate him. This led the president to put a query as to what action was taken on these petitions. The note of the office was to the following effect :-

"These two petitions stated to have been sent by the petitioner are not found in the tappal register (registered) nor in any other file. This is apparently a pretence of the petitioner as on these days he was involved in a criminal case."

4. This indicates that the petitioner had not in fact submitted any such petitions and that these recitals were introduced in this letter with a view to get some relief immediately after he was acquitted in the appellate Court. On 6 June 1955, the petitioner wrote a letter to the Secretary, Co-operative Central Bank, Ltd., Srikakulam, requesting that he might be reinstated. It was alleged in that letter that he had sent an appeal to the board of management against the decision of the executive committee as communicated by the president on 26 December 1950. This request of the petitioner was rejected by the executive committee. It is that rejection that has led to the filing of the writ petition under Art. 226 of the Constitution of India. In support of this petition, it is urged by Sri C. V. Deekshitulu that the respondent had violated the provisions of rule 46(13)(b) which requires that no punishment except censure or fine not exceeding Rs. 10 should be awarded to an employee, unless he had been informed in writing of the grounds on which it was proposed to take action against him and he had been afforded an opportunity and all facilities, including a personal hearing to defend himself. The punishments referred to in that rule are censure or fine, withholding increments, suspension or reduction and dismissal. This does not include "dispensing with services." Therefore, Sri Deekshitulu invites us to hold that since there is no punishment as "dispensing with service" in this rule, the termination in this case should be construed as "dismissal". We are not inclined to accept that construction. The punishment of dismissal involves some serious consequences to the person affected and is also a slur on his character. It is therefore essential that he should be afforded an opportunity. The same thing cannot be said of "dispensing with services" of a servant by his master. It is open to the master to dispense with the services of a servant, unless he was bound by some agreement not to do it. We therefore find that there is no violation of rule 46(13)(b) of the by-laws framed by the co-operative bank. Assuming that there is any infraction of the rule, that does not enable the petitioner to invoke the jurisdiction of this Court under Art. 226 of the constitution. The writ which is available to an aggrieved party cannot be issued to private bodies or organizations like companies or co-operative marketing societies as in the present case. As pointed out by Rajamannar, C.J., in *Nagabhushana Reddi In Re* : [1950 II M.L.J. 278], they could be issued only to inferior Courts, tribunals and bodies entrusted with powers by the law of the land to affect the rights of

parties. Therefore, the order passed by the society in question is not open to scrutiny by this Court on certiorari. There are also other reasons why this petition should be dismissed. The petitioner has got the ordinary remedy of a suit for damages for wrongful removal, if he is really aggrieved by the impugned order and this Court will not interfere when there is an adequate remedy which could be pursued by a party. Lastly, the petitioner is guilty of laches in that he seeks this relief after a period of nearly five years. The impugned order was passed in 1950 and this petition was filed in 1955. The petitioner seeks to explain it away by saying that he sent an appeal to the governing body against the order in dispute and tries to substantiate this plea with reference to the letter, dated 17 February 1954 already extracted. This is disputed by the respondent who asserts that no appeal was sent in the year 1951 as stated in that letter. We are disposed to agree with the respondent. For one thing, there is not a scrap of paper in the possession of the petitioner to show that he had sent any such appeals against the order. Further, the recitals in that letter themselves belie the statement that an appeal was sent to the governing body for this reason that he says he had sent two letters to the president and not to the governing body. Again, even the letter of 1954 requests the president to reinstate him. There is not even a suggestion that these matters should be placed before the governing body. For all these reasons, we think that there are no grounds to interfere with the order in question, and the petition has to be dismissed with costs. The advocate's fee is fixed at Rs. 75.