

(1992) 07 SC CK 0028

In the Supreme Court Of India

Case No : Civil Appeal No. 2739 of 1992 (arising out of S.L.P. (C) No. 6170 of 1992)

National Central Co-operative Bank Ltd.

APPELLANT

Vs

Ajay Kumar and others

RESPONDENT

Date of Decision : 22-07-1992

Acts Referred:

Citation : AIR 1994 SC 39 : (1994) 3 SCC 406 Supp

Hon'ble Judges : S. Mohan, J;N. Venkatachala, J;L. M. Sharma, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. Special leave is granted. The appeal arises in the following circumstances.

2. The respondents 1-9 were appointed to different posts in the appellant co-operative bank. Subsequently their services were terminated on the ground that the initial appointments were illegal. The respondents challenged the termination of their services by filing a writ petition in the Patna High Court on the ground that the impugned orders have been passed without giving any opportunity to them to place their case. The learned single Judge, who heard the writ petition, allowed the same and quashed the orders of termination, but held that the respondents would not be immediately reinstated. It was directed that the bank would hold an inquiry in which the respondents would be allowed to place their case and only if and when the result of the inquiry is in their favour they would be reinstated in service. Accordingly a proceeding was started.

3. In the meantime the respondents 1-9 challenged the latter part of the Judgment of the learned single Judge refusing their prayer for immediate reinstatement in service. The matter was placed for admission before a Division Bench with notice only to the State counsel, who did not represent the appellant bank. No notice was issued to the appellant bank at all and the Letters Patent Appeal was allowed and the appellant was directed to reinstate the respondents

1-9 immediately and to pay them full monetary benefits. However, subject to the observation that if ultimately the result of the inquiry goes against the respondents, they would be removed from service. This is challenged by the appellant before us.

4. Having gone through the facts and circumstances of the case in our view the presence of respondent No. 10, State of Bihar, and respondent No. 11, Registrar, Cooperative Societies, is not essential for final decision in the appeal. Accordingly we have proceeded to dispose of the appeal after hearing the learned advocates for the appellant and the respondents Nos. 1-9.

5. It is well settled that no adverse orders can be passed against a party without giving it opportunity to place its case on this very ground the writ petition was allowed in part by the learned single Judge. Applying the same principle to the Letters Patent appeal, it was necessary for the Division Bench to have issued notice to the appellant and given it an opportunity to contest the appeal before proceeding to finally dispose it of. Since this has not been done, we set aside the impugned Judgment and remit the Letters Patent Appeal for fresh decision by the Division Bench.

6. It is stated that the inquiry commenced after the Judgment of the learned single Judge concluded against the respondents and a writ petition being No. CWJC 1100 of 1992 there from is pending in the High Court. We direct that the Letters Patent Appeal and the said writ petition should be heard together. With a view to expeditious disposal of the cases we further direct the parties before us to appear in the High Court without delay without waiting for further notice. The appeal is allowed in the above terms. There will be no order as to costs.