
(2000) 12 SC CK 0058

In the Supreme Court Of India

Case No : Civil Appeal No: 8280, 8281 of 1997

Rajajinagar Coop. Bank Ltd.

APPELLANT

Vs

K. Gururaj and Another

RESPONDENT

Date of Decision : 06-12-2000

Acts Referred:

Industrial Disputes Act, 1947 Sec 25F

Citation : (2000) 3 ACR 2758 : (2001) 1 ALD(Cri) 83 : (2001) CriLJ 102 :
(2000) 2 JT 602 Supp : (2001) 2 OLR 4 : (2000) 7 SCALE 424 : (2000) 4 SCR
621 Supp : (2001) 1 UC 257

Hon'ble Judges : S. Rajendra Babu, J;S. N. Variava, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.RAJENDRA BABU, J.-These appeals are directed against orders made by the High Court in writ proceedings, firstly by a learned single Judge and thereafter by a Division Bench affirming a award passed under the Industrial Disputes Act (in short the "Act"). "The dispute between the parties was directly raised under Section (4-A) of the Industrial Disputes (Karnataka amendment) Act, 1957 calling in question termination of the services of first respondent hereinafter referred to as the "respondent") a contrary to the provisions of Section 25-F of the Act.

2. Facts leading to this dispute are as follows: The respondent had been employed from January 1, 1987 in the appellant's Bank and as placed on probation for a period of one year. His period of probation was extended twice, firstly up to the period of June 10, 1988 and thereafter upto December 31, 1988. On an inspection of the Bank in terms of section 65 of the Karnataka Co-operative societies Act it was noticed that the appointments of seven persons including the respondent are illegal and irregular. On receipt of a show-cause notice the Bank decided to terminate the services of all the seven employees who had been illegally, appointed. Thus the order of termination dated November 6, 1988 was sent to

the respondent. The Bank was subsequently superseded and an Administrator too was appointed who made recommendation in, 1991 for regularisation of six employees those services were dispensed with along with the respondent. However, the administrator did not make such accommodation so far as the respondent was concerned in view of his poor service profiles. It is thereafter the dispute was raised by the respondent that his services too should have been continued.

3. The contention put forth on behalf of the respondent was accepted by the Labour Court principally on the basis that there is no compliance of Section 25-F of the Act inasmuch as the respondent had been serving the appellant-Bank from January 1, 1987 and his services were sought to be put an end to only by the order made on November 6, 1988. Before the Labour Court the appellant contended that Section 25-F would not be attracted inasmuch as the services of the respondent had been put an end to during the period of probation, but the same was not considered. That is how the award was made in favour of the respondent. Unfortunately, the learned single Judge while dealing with the writ petition held that contention had not been raised before the Labour Court though at earlier stage of the order he noticed that the appellant had raised such a probation was due to expire on December 31, 1988. Thus, the facts are clear in this case that termination was within the period of probation.

4. Mr. Bhat, undaunted by these facts very valiantly combated to contend that the termination of the services of the respondent has been for extraneous reasons other than the one that is reflected in the order namely that he had been charged with irregularities in relation to drawing a sum of Rs.45,000.00 from SB Account 17291 of C. Rangaswamy. After a preliminary inquiry it is claimed that he is exonerated and thus there is no reason for the appellant to continue with any inquiry or bear that aspect in mind in discharging his services. It is not necessary to examine this aspect of the matter. When the services of the respondent were required to be continued, regularised or confirmed after the period of probation his service record is examined and since the same is not satisfactory his services were discharged. Thus the respondent was not found suitable to be continued in service of the appellant. Hence we do not think the order of termination is bad. Therefore, we hold that the order of termination of the respondent was in terms of stipulation contained in his appointment order and we set aside the award made by the Labour Court as affirmed by the High Court. The appeals are allowed. There will be no order as to costs.