
(2014) 12 MP CK 0047

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2543/2011 (S)

Rakesh Singh Bhadouria

APPELLANT

Vs

District Cooperative Central Bank Ltd.

RESPONDENT

Date of Decision : 08-12-2014

Acts Referred:

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

Citation : (2014) 12 MP CK 0047

Hon'ble Judges : Sheel Nagu, J;S.K. Gangele, J

Bench : Division Bench

Advocate : Shailendra Singh Kushwah, Advocate for the Appellant; Purushottam Lal Sharma, Advocate for the Respondent

Judgement

1. Heard.

2. The petitioner has filed this petition against the order dated 19th November, 2010 (Annexure P-1) passed by MP State Cooperative Tribunal.

3. The petitioner was working as peon in the respondent- Bank. He was subjected to departmental enquiry. After enquiry, his services were terminated by order dated 3/4/2007. Against the aforesaid order, petitioner filed an appeal on 13/04/2007. When the appeal was not decided, on 18/08/2007 the petitioner raised a dispute under Section 55(2) of Madhya Pradesh Cooperative Societies Act, 1960 [No.17 of 1961] {hereinafter referred to as "the Act"} before the Joint Registrar, MP Cooperative Societies. The Joint Registrar vide order dated 08/06/2009 (Annexure P-6) decided the dispute in favour of petitioner and held that termination of services of the petitioner was illegal and ordered reinstatement with back wages.

4. Against the aforesaid order, the Bank has filed an appeal before the MP State Cooperative Tribunal, Bhopal which was registered as First Appeal No. 239/2009. The State Cooperative Tribunal vide impugned order dated 19th November, 2010 allowed the first appeal after holding that the Joint Registrar was not competent

to entertain the dispute under Section 55(2) of the Act, because it was filed beyond the period of thirty days.

5. Section 55(2) of the Act reads as under:-

55(2) Where a dispute, including a dispute regarding terms of employment working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding on the society and its employees.

Provided that the Registrar or the officer referred to above shall not entertain the dispute unless presented to him within thirty days from the date of order sought to be impugned.

Provided further that in computing the period of limitation under the foregoing proviso, the time requisite for obtaining copy of the order shall be excluded."

6. As per proviso of Section 55(2) of the Act, the dispute has to be presented within a period of thirty days from the date of order sought to be impugned. However, further proviso prescribes the period of limitation, the time requisite for obtaining the copy of the order shall be excluded.

7. In the present case, after termination of services of the petitioner, he filed an appeal before the President of the Society in accordance with service rules, named as "District Cooperative Central Bank Employees" Services Rules" [in short "Bank Employees Service Rules"]. As per clause (iv) of the Bank Employees Services Rules, the Chief Executive Officer is the competent authority to inflict major and minor punishment on Class-IV employees. Clause (iv) of the Services Rules reads as under:-

8. In the present case, the order of punishment was passed by "Mahaprabhandhak" on 3/4/2007, copy of which has been filed in this petition as Annexure R/5. It is mentioned in the order that the services of the petitioner were terminated in pursuance to the decision taken by the Working Committee on 14/03/2007. As per the Bank Employees" Services Rules, the competent authority to inflict major punishment on Class- IV employee is Chief Executive Officer. It means that the order of punishment was passed by ? Mahaprabhandhak? i.e. equal to Chief Executive Officer. Clause (iv) of Services Rules prescribes provisions of appeal. There is a provision of appeal to the President of the Society if the order has been passed by the Chief Executive Officer. Hence, the petitioner filed a valid appeal before the President of the Society. Admittedly, the appeal was not decided in between the petitioner raised a dispute.

9. This Court in the case of District Central Co-Operative Bank Ltd., Mandsaur and Another Vs. Prahlad Mungar (dead) through L.Rs. Rajesh Kumar and Another, , has held that the period of limitation in raising a dispute under Section 55(2) of the Act shall be counted from the date of decision of the appeal. The

period spent on disposal of the appeal will liable to be excluded.

10. In the present case, no order of the appeal was passed. But, it is a fact that the petitioner had been prosecuting his appeal.

11. In such circumstances, the period spent by the petitioner in prosecuting his appeal be excluded for the purpose of counting the limitation for raising dispute under Section 55(2) of the Act and in that case, the dispute raised by the petitioner before the Joint Registrar, was within the limitation.

12. Consequently, the petition is allowed. The impugned order dated 19th November, 2010 (Annexure P-1) is hereby set aside. The matter is remanded back to the State Cooperative Tribunal to decide the appeal on merits.

13. No order as to costs.