

(1992) 01 AHC CK 0007
In the Allahabad High Court
Case No : Writ No. 30764 of 1991

Ram Kalap

APPELLANT

Vs

District Administrative Committee/District Cooperative Bank
Limited and Another

RESPONDENT

Date of Decision : 06-01-1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 1, Order 21 Rule 2, Order 21 Rule 2(2A), Order 21 Rule 2(3), 115
Limitation Act, 1908 — Article 174
Limitation Act, 1963 — Article 125
Provincial Small Cause Courts Act, 1887 — Section 25

Citation : (1992) 1 AWC 297 : (1992) 1 UPLBEC 580

Hon'ble Judges : D.P.S. Chauhan, J

Bench : Single Bench

Advocate : S.K. Lal, for the Appellant;

Final Decision : Allowed

Judgement

D.P.S. Chauhan, J.—Heard the Learned Counsel for the Petitioner. The counsel for the Respondent is not present. No counter affidavit has been filed inspite of time having been granted by this Court on 25-11-91. It is a case which can be disposed of finally.

2. The Petitioner is a member of U.P. Primary Agricultural Cooperative Credit Societies Centralised Service created u/s 122-A of the U.P. Cooperative Societies Act, 1965, by rules known as U.P. Primary Agricultural Co-operative Credit Societies Centralised service Rules 1976 and under Rule 30 of the said Rules, regulations known as U.P. Primary Agricultural cooperative credit societies centralised service Regulations, 1978 have been framed and the service of the Petitioner are governed by the said rules and regulations.

3. The Petitioner was involved in a criminal case (Crime No. 259 of 1990 under Sections 395/397 IPC) and according to him, his involvement is false on account

of enmity. When the Petitioner came to know about the said case, he surrendered before the court on 25-10-90 and was granted bail on 24-11-90 by the court of Sessions. Basti and thereafter, he continued to work as Secretary of Sadhan Sahakari Ltd., Jagaranthpur, district Basti till 24-1-1991. He was suspended on 25-1-1991 by the Secretary/District Committee constituted under the aforesaid rules. This order of suspension is being challenged by means of this petition.

4. The order of suspension is founded on the facts that the Petitioner remained in Jail with effect from 25-10-90 to 23-11-90 and was released on bail on 24-11-90 and according to the police record, the Petitioner has worked against the regulations and concealed the facts and thus his suspension has become necessary.

5. So far as the police records are concerned they have no relevance in the matter of the suspension of the Petitioner as there on suspension cannot be resorted to under Clause (f) of Regulation 59 of the aforesaid Regulations, the concerned authority has to get himself satisfied that a prima facie case exists, which is likely to result in the removal, dismissal or reduction in rank of the member or when an enquiry into his conduct is immediately contemplated or is pending and his further continuance on his post is considered detrimental to the interest of the Society or authority. In the present case, the concerned authority has not come to any satisfaction that a prima facie case exists against the Petitioner, which is likely to result in the removal, dismissal or reduction in rank, and no such satisfaction can be arrived at unless conviction is recorded. An enquiry into the conduct of Petitioner was contemplated as per impugned order and where for an enquiry officer was appointed. The impugned order of suspension clearly is not under Regulation 57(i) of the aforesaid regulations.

6. But so far nothing has been done and the Petitioner has not even been served with any charge sheet and he has been kept under suspension since 25-1-91. Though, the suspension even otherwise cannot be justified as contemplated and pendency of the enquiry regarding conduct of the delinquent by itself is not sufficient, but there must be some such thing in existence, which may justify that the continuance of the delinquent on the post was not in the interest of the Society or authority. In the present, there is no such thing.

7. The third clause of Regulation 59(f) of aforesaid regulation regarding pendency of the complaint, as it appears, has been invoked, as the complaint against the Petitioner regarding criminal offence is under police investigation for which he was arrested. If under Sub-Clause (iii) of Clause (f) of Regulation 59, the District Assistant Registrar, Basti as a member of secretary, preferred to draw a disciplinary proceedings against the Petitioner, then he should have taken care that the disciplinary proceedings against the Petitioner ought to have been completed speedily. In the present case a period little less than one year has lapsed, but even the charge sheet has not been served on the Petitioner. Such an unfair conduct of the Respondent cannot be approved.

8. In the result, the writ petition is allowed with costs, which is assessed Rs. 500/-. The Petitioner shall be entitled for his full wages now and onward and for the period anterior to this date he shall be entitled only for the subsistence allowance as may be admissible to him under law. It would be open for the concerned authority to take work or not to take work from the Petitioner, but he shall not now onward be treated under suspension. It would further been open to the concerned authority to complete the disciplinary proceedings against the Petitioner. It is made clear that in case the Petitioner is convicted in the criminal case, this order would not deter the effect of Regulation 57 of the aforesaid regulations.