
(2007) 07 MP CK 0091
In the Madhya Pradesh High Court

Ramjati Sharma

APPELLANT

Vs

M.P. State Co-operative Tribunal and Others

RESPONDENT

Date of Decision : 31-07-2007

Acts Referred:

Madhya Pradesh Co-operative Societies Act, 1960 — Section 55(2), 86

Citation : (2007) 4 MPHT 315

Hon'ble Judges : Subhash Samvatsar, J; Sanjay Yadav, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Subhash Samvatsar, J.—This appeal is filed by the appellant challenging the order dated 28-9-2001 passed by learned Single Judge of this Court in W.P. No. 1025/2001. Initially a Letters Patent Appeal was filed by the present appellant challenging the aforesaid order which was registered as L.P.A. No. 339/01, but the same was dismissed in view of the judgment of the Apex Court in case of Jamshed N. Guzdar Vs. State of Maharashtra and Others, . Subsequently, M.P. Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005 came into force and the LPA was restored and was registered as Writ Appeal No. 196/06.

2. The brief facts of the case are that present appellant was an employee of respondent No. 4 District Central Co-operative Bank, Ltd., Bhind. The appellant was posted as "Samiti Prabandhak". The appellant was the cadre employee of respondent Bank. On 29-11-1984 a show-cause notice was served on the appellant levelling three charges. Thereafter, in the Departmental Enquiry the appellant was found guilty of the charges levelled against him and services of the appellant were terminated by the order dated 16-3-1985.

3. The appellant filed a dispute u/s 55(2) before the Assistant Registrar, Co-operative Societies on 14-3-1986 and the Assistant Registrar has set aside the order of termination. This order was challenged by the respondent/Bank by filing an appeal before the Joint Registrar, which was dismissed. Hence, the said order

was challenged before the M.P. State Cooperative Tribunal, Bhopal and the Tribunal has set aside the order passed by the Assistant Registrar and Joint Registrar and dismissed the dispute on the ground that it is time barred u/s 55(2) of M.P. Co-operative Societies Act which provides a limitation of 30 days for filing the dispute from the date of order.

4. This order was challenged by the present appellant by filing a writ petition before the learned Single Judge. The learned Single Judge dismissed the petition by holding that the dispute filed by the appellant/petitioner is time barred. The learned Single Judge has also held that there is no provision for condonation of delay in filing the dispute, hence, affirmed the order passed by the Tribunal. Hence, the present appellant has preferred this appeal.

5. Contention of the learned Counsel for the appellant is that learned Single Judge as well as the Tribunal have committed an error in holding that the dispute filed by the present appellant was beyond limitation. According to him the appellant has filed the dispute when he was served with the order of termination. Learned Single Judge has held that dispute is barred by limitation and has relied upon the judgment arrived at by the Tribunal in Para 12 of its judgment. From perusal of Para 12 of the judgment it appears that the Tribunal in the aforesaid para has held that the petitioner/appellant was aware of the termination order and he got the information about his termination on 17-4-1985 when he went to the bank for joining. It is also stated that the order of termination was noted to the petitioner/appellant and he signed the order. Thus, he acquired the knowledge of termination order.

6. The next contention of learned Counsel for the appellant is that every order passed under the M.P. Co-operative Societies Act (hereinafter referred to as "the Act") is to be served in accordance with the Section 86 of M.P. Co-operative Societies Act, which provides that every notice or order issued or made under this Act, the rules or bye-laws may be served on any person by properly addressing it to the last known place of residence or business of such person by registered post with acknowledgment due letter containing the notice or order.

7. Thus, according to the Counsel for the appellant this procedure is not followed in the present case. It cannot be said that the order was served on the present appellant and once it is hold that order was not served on him, the Tribunal as well as learned Single Judge has committed an error in holding that dispute is barred by limitation.

8. Shri Ajit Sharma, learned Counsel for the respondent No. 4/Bank contended that once it is hold by the Tribunal as well as by the learned Single Judge that the appellant got knowledge of the order verbally therefore, the notice u/s 86 of the M.P. Co-operative Societies Act is not necessary. He further submitted that Section 86 of the Act is applied only to Chapter 11 of the Act. After perusing the Section 86 we are unable to accept the contention raised by Shri Sharma, because Chapter 11 deals with miscellaneous provisions and Section 86 of the

Act provides that every order passed under this Act is to be served in accordance with law.

9. The learned Counsel for the respondent No. 4/Bank invited attention of this Court to the proviso of Section 86 of the Act and submitted that this proviso permits the Bank to serve any order/notice passed under the Act by hand delivery. After perusal of the said proviso we find that this argument is also not well founded. The language of the proviso clearly shows that the proviso applies to notice relating to a meeting called by the society and not for other orders.

10. Admittedly, in the present case the order of termination was not served on the appellant as provided u/s 86 of the Act, therefore, it cannot be said that the dispute filed by the present appellant is beyond limitation. In such circumstances we allow this appeal and set aside the order passed by the learned Single Judge as well as of the Tribunal and remand the matter back to the Tribunal for deciding the dispute filed by the appellant in accordance with the law. The Tribunal is further directed to make full endeavour to decide the same within a period of six months. Parties to appear before the Tribunal on 3rd September, 2007.

With the aforesaid, appeal is allowed.