
(1996) 10 SC CK 0205
In the Supreme Court Of India
Case No : Civil Appeal No. 3629 Of 1996

Sagarmal

APPELLANT

Vs

Distt. Sahkari Kendriya Bank Ltd., Mandsaur and Another

RESPONDENT

Date of Decision : 01-10-1996

Acts Referred:

Central Excises and Salt Act, 1944 — Section 10
Industrial Disputes Act, 1947 — Section 10(1)(d)

Citation : (1997) 10 SCC 292

Hon'ble Judges : J. S. Verma, J; B. N. Kirpal, J

Bench : Division Bench

Final Decision : Allowed

Judgement

J.S. Verma and; B.N. Kirpal, JJ.-The appellant was an employee of a cooperative bank. He was removed from service after a disciplinary inquiry in which charges of grave misconduct were found proved. The appellant assailed his removal by seeking a reference under Section 10 of the Industrial Disputes Act, 1947 to the Labour Court. In that reference, the Labour Court granted him relief of reinstatement with back wages. The respondent bank challenged the award as a nullity in a writ petition filed in the High Court. The High Court has quashed the award on the ground that it is a nullity being made in an incompetent reference. Hence this appeal by special leave.

2. The learned counsel for the appellant strenuously urged that by virtue of Section 93 of the Madhya Pradesh Cooperative Societies Act, the reference made to the Labour Court under Section 10(1)(d) of the Industrial Disputes Act, 1947 was competent and, therefore, the award was valid. The learned counsel also placed strong reliance on the decision of the Madhya Pradesh High Court in *Rashtriya Khadan Mazdoor Sahakari Samiti Ltd. v. Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court*¹. We are unable to accept this contention.

3. The decision relied on by the learned counsel has no application to the present case. There can be no doubt that the provisions of the Central Act, namely, the

Industrial Disputes Act, 1947 did not apply to the employees of the respondent cooperative bank and, therefore, the only question which could arise was of the availability of the remedy either under the Madhya Pradesh Cooperative Societies Act, 1960 or under the Madhya Pradesh Industrial Relations Act, 1960. It is for this question, if it were to arise, that the effect of Section 93 of the Madhya Pradesh Cooperative Societies Act would come in. However, no occasion arose for consideration of this question in the present case inasmuch as the appellant did not resort to the remedy either under the Madhya Pradesh Cooperative Societies Act or under the Madhya Pradesh Industrial Relations Act, but chose the remedy of a reference under Section 10 of the Industrial Disputes Act, 1947 which is clearly inapplicable. The only question before the High Court was the competence of a reference under Section 10 of the Industrial Disputes Act, 1947 and not the availability of the remedy under the Madhya Pradesh Cooperative Societies Act or the Madhya Pradesh Industrial Relations Act. The view taken by the High Court that the reference under Section 10 of the Industrial Disputes Act, 1947 was incompetent and, therefore, the award made therein a nullity, does not suffer from any infirmity. The Full Bench decision of the High Court on which strong reliance has been placed by the learned counsel for the appellant is of no assistance to the appellant in the present case.

4. Consequently, the appeal is dismissed.