**(2013) 10 MP CK 0104**

**In the Madhya Pradesh High Court**

**Case No :** Writ Petition No. 6444 of 2004

The District Central Co-operative Bank Ltd. — APPELLANT

Vs

Imarat Singh Dangi and Others — RESPONDENT

**Date of Decision :** 25-10-2013

**Acts Referred:**

**Citation :** (2013) 10 MP CK 0104

**Hon'ble Judges :** Vimla Jain, J;A.K. Shrivastava, J

**Bench :** Division Bench

**Advocate :** V.K. Shukla, for the Appellant; Sanjay K. Agrawal, Learned Counsel for Respondents No. 1 to 4, for the Respondent

**Final Decision :** Dismissed

## Judgement

A.K. Shrivastava, J.—By this petition under Articles 226 /227 of the Constitution of India, the petitioner Bank is seeking following reliefs:-

(i) The Hon''ble Court be pleased to call for the entire record pertaining to the dispute for its kind consideration.

(ii) That, the Hon''ble Court be pleased to quash the order dated 3.4.2002 (contained in Annexure P/7) passed by the M.P. State Cooperative Tribunal by issuing a writ in the nature of certiorari or any other appropriate writ/direction or order like nature.

(iii) Any other relief which this Hon''ble Court finds fit and proper in the circumstances of the case given to the petitioner.

Indeed the order dated 3.4.2002 passed by M.P. State Cooperative Tribunal passed in Revision No. 181/2000 (hereinafter referred to as the Tribunal) has been made pivot in this petition. The respondents no. 1 to 4 filed a revision application u/s 77 of the M.P. Cooperative Societies Act, 1960 (for short, ''the Act of 1960'') against their order of compulsory retirement. The learned Tribunal by the impugned order has allowed their revision application and set aside the order of compulsory retirement dated 1.5.2000.

2. The contention of learned counsel for the petitioner is that because the target was not being achieved by the respondents, therefore, rightly they have been retired compulsorily. Learned counsel further submits that on merit as well as on the ground of availability of alternative remedy, the revision application ought to be dismissed. According to learned counsel, a preliminary objection was raised by the petitioner before the Tribunal that there is an efficacious and alternative remedy available to the revisionists/respondents to file necessary application u/s 64 of the Act of 1960 by filing a dispute before the Joint Registrar, Cooperative Societies and having not done so, the Tribunal was not having any jurisdiction to decide the revision application on merit, hence it has been prayed that the impugned order be set aside and the respondents be directed to file a dispute u/s 64 of the Act of 1960 before the Joint Registrar, Cooperative Societies Act.

3. On the other hand Shri Sanjay K. Agrawal, learned counsel for the respondents/revisionists submitted that merely because the alternative remedy was available to the revisionists, would not straightaway entail the dismissal of the revision application which otherwise was found having merit. Learned counsel for the parties have also addressed on merits of the case at length.

4. Having heard learned counsel for the parties, we are of the considered view that this petition deserves to be dismissed.

5. On bare perusal of para 4 of the impugned order of the Tribunal, this Court finds that on the basis of a show cause notice dated 4.6.1999 (annexure P/3) warning was issued to the revisionists that if 60% recovery of the petitioner Society is not made by 30th June, 1999, they shall be retired compulsorily. According to us, learned Tribunal rightly found that this itself is an indication by the Management to the respondents/revisionists that they are determined to retire the revisionists compulsorily.

6. On bare perusal of the impugned order of the Tribunal, this court finds that without going through the service record and other material pertaining to the revisionists, straightaway such a Hitler decision was taken by the Bank and, therefore, the learned Tribunal rightly came to hold that such type of order of compulsory retirement cannot be upheld. That apart, under rule 72(1) of M.P. District Cooperative Central Bank Employees Service Conditions Rules, 1982, three months'' salary was not given and, therefore, for this another reason also the Tribunal came to hold that the order of compulsory retirement is bad in law.

7. The learned Tribunal after considering various decisions of the Supreme Court and by paying heed that without going through the Annual Confidential Reports, the punishment of compulsory retirement could not have been awarded and in this regard we have gone through the reasonings assigned by learned Tribunal in paras 10 and 11 of the impugned order and we find that rightly it has been so held by learned Tribunal.

 

8. At this juncture Shri Sanjay K. Agrawal, learned counsel for the respondents submits that after the order of the Tribunal, the respondents were reinstated in service and now they have already retired after attaining the age of superannuation but their retiral dues have not yet been paid by the employer/ petitioner. The contention of learned counsel is that certain directions be issued to the petitioner to pay retiral dues to the respondents.

9. Although no separate petition has been filed by the respondents in this regard but this Court hopes and trust that if the employees/respondents are retired they are entitled for retiral dues in accordance to law and certainly as a model employer, the petitioner would pay retiral dues to the respondents, if already not paid. With the aforesaid observation, this petition stands dismissed.

 