

(2019) 02 SC CK 0406

In the Supreme Court Of India

Case No : Civil Appeal No(S). 1968, 1969 Of 2019

Tirur Cooperative Agricultural And Rural Development Bank
Ltd. APPELLANT

Vs

T.N. Sivasankaran & Anr. RESPONDENT

Date of Decision : 22-02-2019

Acts Referred:

Citation : (2019) 02 SC CK 0406

Hon'ble Judges : Dr. Dhananjaya Y. Chandrachud, J;Navin Sinha, J

Bench : Division Bench

Advocate : Zulfiker Ali P. S, Raghenth Basant, Mithun Verghis, Raghav Mehrotra,
Liz Mathew

Final Decision : Partly Allowed

Judgement

Leave granted.

Disciplinary proceedings were adopted against the first respondent who was a Junior Supervisor at the material time with the appellant. The principal charge against the first respondent was the incorrect issuance of utilisation certificates. He was dismissed after a disciplinary enquiry.

The Co-operative Arbitration Court while setting aside the findings in the enquiry awarded reinstatement with back wages. The Co-operative Tribunal, in appeal, modified the order to one of compulsory retirement. As a result, the first respondent upon attaining the age of superannuation has been granted retiral benefits.

The Learned Single Judge on the quantum of back wages directed the payment of 25 per cent which has been enhanced by the Division Bench in a Letters Patent Appeal to 50 per cent back wages.

On the fairness of the enquiry, the Division Bench has noted that though the first respondent had filed his objections on 17 December 2007, he thereafter

remained absent on 2 January 2008. However, it was found that on three subsequent sittings, the first respondent had no notice of the proceedings.

On this aspect, we extract below the findings which have been recorded by the learned Single Judge.

"6. Before the Co-operative Arbitration Court, the Enquiry Officer was examined as DW2. He admitted that the enquiry did not take place on three postings after 3.8.2008. In answer to the question whether notice was issued to the petitioner thereafter, the Enquiry Officer replied that he did not find it necessary. He also admitted that the petitioner had not been declared exparte and his written statement was not marked. Confronted with the question as to whether, the petitioner had been examined as a witness, the Enquiry Officer answers that the said statement in the report was a mistake. It was on these admitted facts that the Co-operative Arbitration Court held that the petitioner had not been given a proper opportunity to put forth this case before the Enquiry Officer."

These findings have been affirmed by the Division Bench.

Ordinarily, there being a breach of the principles of natural justice, the Court would have been inclined to remand the proceedings back to the disciplinary authority for concluding the proceedings from the stage at which a denial of natural justice took place. However, nearly 12 years have elapsed since the disciplinary proceedings were initiated and the first respondent has attained the age of superannuation in 2009. Hence, no useful purpose would be served in continuing with the disciplinary proceedings at this stage.

However, having regard to the totality of the facts and circumstances, the order of the Division Bench enhancing the quantum of back wages from 25 per cent to 50 per cent carries no reasons whatsoever.

In the circumstances, we restore the directions of the learned Single Judge for the payment of back wages quantified at 25 per cent.

If the retiral benefits of the first respondent have not been released, they shall be released within a period of one month from the receipt of a certified copy of this order.

The quantum of back wages shall be re-quantified and the correct payment be released within the above period.

The appeals are, accordingly, allowed in part. No costs.

Pending application(s), if any, shall stand disposed of.