
(2002) 09 AHC CK 0085
In the Allahabad High Court
Case No : C.M.W.P. No. 18671 of 2001

Vidya Shanker

APPELLANT

Vs

Registrar Co-operative Societies and Others

RESPONDENT

Date of Decision : 05-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 5 AWC 3886

Hon'ble Judges : S.P. Mehrotra, J

Bench : Single Bench

Advocate : H.M. Srivastava and K.S. Tewari, for the Appellant;

Judgement

S.P. Mehrotra, J.—This writ petition under Article 226 of the Constitution of India has been filed by the Petitioner with the following prayer:

- (a) Issue a writ, order or direction in the nature of certiorari quashing the order dated 18.12.2000 passed by Respondent No. 1 filed as (Annexure-16 of the writ petition).
- (b) Issue a writ, order or direction in the nature of mandamus commanding Respondent No. 1 to pay pension and other retiral benefit to the Petitioner.
- (c) Issue a writ, order or direction in the nature of mandamus commanding Respondent No. 1 to produce previous enquiry report and recommendation of Deputy Registrar (Admin) and Additional Registrar (Admin) Head Quarter for the perusal of the Hon''ble Court.
- (d) Issue any other writ, order or direction which this Hon''ble Court may deem fit and proper under the circumstances of the case.
- (e) Award the costs of petition to the Petitioner.

2. It was, inter alia, alleged that the Petitioner was working on the post of Co-operative Inspector Grade-I ; and that disciplinary proceedings were initiated

against the Petitioner ; and that the Petitioner had earlier filed writ petition being Writ Petition No. 26395 of 1999 which was disposed of on 6th July, 1999, with the direction to the enquiry officer to conclude the proceedings within two months from the date of production of certified copy of the order of the Court ; and that the said order of the Court was served on the concerned Respondent ; and that inquiry proceedings against the Petitioner were concluded within time and nothing was found against the Petitioner ; and that on 31st December, 1999, the Petitioner retired from the service ; and that by the order dated 18th December, 2000, a fresh inquiry was directed against the Petitioner.

Thereupon the Petitioner filed the present writ petition.

3. On 16th May, 2001, time was granted to the learned standing counsel for filing counter-affidavit. However, no counter-affidavit has been filed so far. During the pendency of the writ petition, application dated 11th July, 2002, supported by an affidavit has been filed in the present writ petition. Along with the said application, the Petitioner has filed copy of the order dated 29th September, 2001, passed by the Registrar Co-operative Societies, U.P., Lucknow, Respondent No. 1.

4. A perusal of the said order dated 29th September, 2001, shows that pursuant to the order dated 18th December, 2000, inquiry proceedings against the Petitioner continued, and ultimately, inquiry officer submitted its report dated 9th August, 2001 and held that the Petitioner was partially guilty of the charge Nos. 2 and 4. Further, from the said order dated 29th September, 2001, it transpires that after receiving the inquiry report, the Registrar Co-operative Societies, U.P., Lucknow, considered the matter and, inter alia held that the Petitioner could not be held guilty of the charges levelled against him, and as such, the disciplinary proceedings against the Petitioner were dropped. The said order dated 29th September, 2001, inter alia, also states that the suspension period of the Petitioner would be deemed/treated to be in service and the Petitioner would be entitled to all dues for the said period.

5. In view of the said order dated 29th September, 2001, filed by the Petitioner as Annexure-1 to the said application dated 11th July, 2002, it is evident that prayers (a) and (c) made in the writ petition have become infructuous.

6. Learned Counsel for the Petitioner, however, submitted that the Petitioner is entitled to the arrears of salary and other retiral benefits, and in this regard, the Petitioner has made representations to various authorities vide Annexures-2, 3 and 4 to the said application dated 11th July, 2002.

7. Having heard learned Counsel for the Petitioner and learned standing counsel appearing for the Respondents, I am of the opinion that as regards prayers (a) and (c) made in the writ petition, the writ petition is liable to be dismissed as having become infructuous, and the same is accordingly dismissed as such with regard to the said prayers.

8. As regards prayer (b) made in the writ petition, I am of the opinion that it will be just and proper to permit the Petitioner to make fresh representation before the Registrar, Co-operative Societies, U.P., Respondent No. 1 within a period of three weeks from today. In case such representation is made before the Respondent No. 1 within the said period of three weeks along with certified copy of this order, the Respondent No. 1 will decide the said representation expeditiously, preferably within a period of two months from the date the representation along with certified copy of this order is produced before him. In case the Respondent No. 1 holds that certain amount is due to the Petitioner, the same will be paid to the Petitioner expeditiously, preferably within a period of three months from the date of decision of the Respondent No. 1 on the representation.

9. With the aforesaid observations the writ petition is disposed of.

A certified copy of this order may be given to the learned Counsel for the parties on payment of usual charges within a week.