
(2014) 08 MP CK 0009
In the Madhya Pradesh High Court
Case No : Writ Petition No. 7289/2011

Zila Sahkari Kendriya Bank Mydt

APPELLANT

Vs

Janki Prasad

RESPONDENT

Date of Decision : 28-08-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Madhya Pradesh Co-operative Societies Act, 1960 — Section 55(2), 78(1)

Citation : (2014) 08 MP CK 0009

Hon'ble Judges : Rajendra Menon, J;Alok Verma, J

Bench : Division Bench

Advocate : Manoj Sharma, Learned Counsel, Advocate for the Appellant; Ashish Shrotri, Learned Counsel, Advocate for the Respondent

Judgement

1. In this petition, under Article 227 of the Constitution of India, concurrent orders passed by the Joint Registrar on 29.09.2008 (Annexure P-2) and order passed by the Madhya Pradesh State Cooperative Tribunal, Bhopal on 28.01.2011 (Annexure P-1) have been called in question.

2. Facts of the case are that the respondent No.1 was working as a Branch Manager in the petitioner-Bank at Branch Semariya, District Panna. It is said that while working as a Branch Manager he granted overdraft facilities worth Rs.3,02,500/- to two customers. On allegations of misappropriation and on certain other grounds a departmental proceeding was initiated and after conducting the departmental enquiry he was dismissed from service.

3. On a dispute being raised under Section 55(2) of the Madhya Pradesh Cooperative Societies Act, the Joint Registrar called for original record of the departmental enquiry and as is evident from order dated 29.09.2008 (Annexure P-2), Joint Registrar found various infirmities in conduct of the departmental enquiry inasmuch as relevant documents were not supplied to the respondent no.1 and the procedure in accordance with the principles of natural justice were not followed. Accordingly, the departmental enquiry was found to be vitiated. The

Joint Registrar set aside the order dated 1.11.2004 and directed the petitioner Bank to pay all the retiral benefits to the respondent No.1. It was also directed that during the period of termination the respondent-employee is not entitled for any other amount except the subsistence allowance on the principle of no work no pay. If the subsistence allowance remains to be paid, the same be paid to the respondent-employee.

4. Aggrieved by this order, first appeal was filed before the M.P. State Cooperative Tribunal, Bhopal under Section 78(1) of the M.P. Cooperative Societies Act, 1960 and the Tribunal having also approved the order of the Joint Registrar, this writ petition is filed.

5. Even though Shri Manoj Sharma, learned counsel for the petitioner has tried to draw our attention to the material on record to say that principles of natural justice have not been violated and the inquiry has been held in accordance with law and Shri Ashish Shrotri, learned counsel appearing for the respondent No.1 refuted the aforesaid contention.

6. From a perusal of the record, we find that the learned Joint Registrar while passing the order Annexure P-2 has called for the original records of the departmental enquiry and has given detailed reasons to the effect that along with the charge sheet the list of documents and witnesses was not supplied and it was found that even these documents were not available on inquiry record. Based on the factual aspect of the matter, learned Joint Registrar has held that principles of natural justice have been violated. In para 10 and 11 of the impugned order Annexure P-1, the Tribunal has also recorded the detailed reasons while affirming the order passed by the Joint Registrar.

7. In view of the aforesaid, we find no error in the concurrent orders passed by the Joint Registrar and the M.P. State Cooperative Tribunal and we find no reason for interference with the same in a proceeding under Article 227 of the Constitution of India. However, we may observe that as the impugned action for removal has been quashed on the ground of violation of principles of natural justice, the same shall not come in the way of Bank if they so desire to initiate any process for recovery of any financial loss to the Bank as provided under the M.P. Cooperative Societies Act.

8. Under these circumstances, finding no reason to interfere in the orders impugned Annexure P-1 dated 28.01.2011 passed by the Tribunal, this writ petition stands dismissed.

9. It is made clear that the respondent-employee has retired from service and if any recovery is to be made then the same shall be done in accordance to law within a period of 6 months from the date of receipt of certified copy of the order, failing which the right to proceed in the matter shall stand forfeited. The petitioner Bank shall finalize the process of payment of retiral dues to the respondent-employee within a period of 6 months from the date of receipt of certified copy of this order.

10. With the aforesaid, this petition is dismissed.

11. C.C. as per rules.