

Chanan Singh

Vs

Registrar, Co-Operative Societies, Punjab and Others

Civil Appeal No. 1137 of 1976

(V.V. Chandrachud, V.R. Krishna Iyer JJ)

18.03.1976

JUDGMENT

KRISHNA IYER, J. -

1. This appeal, by special leave, lends itself to a quick burial in view of the brief facts set out below.
2. The appellant has been an employee of the second respondent. A notice was issued to him to show cause why disciplinary action should not be taken against him for certain items of misconduct imputed to him. The then secretary of the bank, Shri Daljit Singh, enquired into the allegations. Thereafter, on April 1, 1975 the secretary issued a notice to the appellant to show cause why his next increment should not be stopped by way of punishment. A reply was sent by the appellant by way of explanation and the secretary accepting the explanation dropped the proceedings by order dated April 9, 1975 (Annexure III). Thereafter, the Managing Director taking the view that Shri Daljit Singh, secretary, had no power to inflict punishment on the employee of the bank and that, therefore, the proceedings culminating in the exoneration of the appellant were invalid and issued a fresh memorandum which concluded thus :

After considering the said enquiry report along with other relevant documents. I am provisionally of the view to impose upon you a penalty of dismissal from bank services. Before doing so, you are asked to show cause within 21 days from the receipt of this memorandum why on account of finding of the said enquiry Office, into the charges, you should not be dismissed from the bank service. In case no reply is received within the prescribed period, it will be presumed that you have to reply in this behalf and the proposed punishment will be imposed.

The appellant was also suspended on the same date, viz., 7th July, 1975.

3. Thereupon, a writ petition under Articles 226/227 was moved by the appellant challenging the revival of the proceedings against him as illegal and opposed to natural justice.
4. The first point raised in objection by the second respondent is that the writ petition is premature since no action has been taken finally against the appellant, the disciplinary proceedings are still pending and the explanation of the appellant under consideration. It is only in the event of the appellant being punished that any grievance can arise for him to be agitated in the proper forum.
5. Other obstacles in the ways of granting the appellant relief were also urged before the High Court and before us but we are not inclined to investigate them for the short reason that the writ petition

was in any case premature. No punitive action has yet been taken. It is difficult to state, apart from speculation, what the outcome of the proceedings will be. In case the appellant is punished, it is certainly open to him either to file an appeal as provided in the relevant rules or to take other action that he may be advised to resort to. It is not for us, at the moment, to consider whether a writ petition will lie or whether an industrial dispute should be raised or whether an appeal to the competent authority under the rule is the proper remedy, although these are issues which merit serious consideration.

6. We are satisfied that, enough unto the day being the evil thereof, we need not dwell on problems which do not arise in the light of the view we take that there is no present grievance of punitive action which can be ventilated in Court. After all, even the question of jurisdiction to reopen what is claimed to be a closed enquiry will, and must, be considered by the Managing Director on this score, we dismiss the appeal but, in the circumstances, without costs.

7. Before parting with this case, we would like to make it clear that counsel for the co-operative bank has not been able to show any power to suspend an employee pending an enquiry. If that be so, the suspension of the appellant is plainly without the pale of law and he would be entitled to his salary during the period till final orders are passed. Since the matter has been pending long enough, we are assured by counsel for the respondent that final order may be passed within one month from today.

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