

Virendera Singh

Vs

General Manager, Lucknow Producers Co-Op. Milk union

Civil Appeal No. 4234 of 1985

(Ranganath Misra, S. Ranganathan JJ)

29.10.1987

ORDER

1. The appellant in each of these three appeals was an employee of Lucknow Producers' Co-operative Milk Union, respondent 1. All of them were punished in departmental proceedings. Separate writ petitions were filed in the High Court challenging the punishment and the writ petitions were disposed of by a common judgment. At the time special leave was granted in the first two appeals it was confined to one question, namely, whether issuance of the notification under Section 122 of the Uttar Pradesh Cooperative Societies Act, 1965, taking away the disciplinary control of the Uttar Pradesh Cooperative Societies Institutional Service Board in regard to the employees of respondent 1 was violative of Article 14 of the Constitution.
2. We have heard learned counsel for the parties. It is not disputed that with the issue of the notification referred to above the appellate forum against disciplinary punishment has been taken away and delinquent employees of respondent 1 are left with no forum of appeal to challenge the adverse orders. It is difficult to contend and even more difficult to accept, in the backdrop of a series of authorities that where punishment is inflicted, such order would be validly final in the absence of a forum for appeal. Learned Additional Solicitor General appearing for respondent 1 agrees that steps should be taken to provide an appellate forum in regard to the delinquent employees of the respondent to entertain appeals against punishment and dispose them of in accordance with law.
3. In regard to the three cases before us we find that the High Court examined the contentions in the case of Ram Singh at length but did not go into the merit of the matter in regard to the other two. While dealing with the case of Ram Singh the High Court noticed that some of the aspects were factual and findings of fact had been reached which in exercise of the writ jurisdiction could not be gone into. The High Court also found that out of the several charges for which punishment had been imposed only two charges being 3 and 7 had been made out. Counsel for the appellant in that case contended before us that if an appellate forum was available factual aspects could have been examined and if one or two charges out of the many were found sustainable, the appellate authority could legitimately examine the justification of the punishment. The appellate has been deprived of all these benefits in the absence of the appellate forum.
4. On looking into the matter closely we satisfied that the appellants have been prejudiced by the absence of an appellate forum and were forced to approach the High Court. The writ jurisdiction did not provide an adequate alternative forum and the petitioner should not suffer in such a situation. We accordingly permit the writ petitions before the High Court to be withdrawn. Necessarily the common decision of the High Court has to be vacated.

5. We direct the State of Uttar Pradesh which unfortunately is not a party in these appeals to constitute the Law Secretary of the State as the appellate forum for the appellants who undertake to prefer appeals within two weeks from today. The appeals shall be preferred before the Secretary, Cooperation, Government of Uttar Pradesh at Lucknow and the appeals shall be transferred to the Secretary, Law, Government of Uttar Pradesh for disposal. He will have all the powers of a departmental appellate authority to exercise in regard to these appeals. We hope and trust that the appellate authority shall dispose of these appeals within a reasonable time, not exceeding four months from the date of filing.

6. Shri Srivastava seems to have moved the Allahabad High Court for initiating contempt proceedings. The contempt petition before the High Court is dismissed.

7. The appeals are disposed of accordingly. There would be no order for costs.

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