

Daulat Ram

Vs

Zila Sahkari Kendra Bank Ltd. and Others

Civil Appeal No. 675 of 1991

(CJI Ranganath Misra, P. B. Sawant, Kuldip Singh JJ)

08.02.1991

JUDGMENT

RANGANATH MISRA C.J. –

1. Special leave granted. We have heard counsel for the parties. The explanation for delay in presentation of the special leave petition is accepted. Delay condoned.

2. Appellant was a Peon in respondent 1-Bank and was removed from service following a disciplinary proceeding. The Board of Revenue-respondent 2 after hearing parties came to the finding that termination of service was not justified and by its order dated August 20, 1981, held :

"I heard the arguments of the counsel for the appellant. The counsel for the respondent did not address any argument. I saw the case. After reading the order of the Deputy Registrar it seems that he has discussed and considered only the legal aspects of the case. In the said order there is no discussion on as to how many charges were there against the appellant, what the same were and how the same were found to be prove when mentioning of all these matters in the said order was necessary. Only legal aspects are not all important but the position (Hindi word being Sthiti) of the case and after framing of charges, discussion etc. on proofs of the same also are of much importance. It is clear from the order of the Joint Registrar that there were two charges against him. The first one that he (the appellant) had refused to accept letter and the second that the appellant had misbehaved. The Joint Registrar also has not discussed or expressed any opinion regarding both these charges. He also like the Deputy Registrar after considering the legal aspects of the case, retained the order of the Deputy Registrar. Whereas, for the Joint Registrar also, to consider and discuss regarding the charges, was necessary."

3. The Board of Revenue by its order found that the charge of the appellant hurling abusive word has not been proved and the residuary charge of the appellant's refusal to accept the letter was not such a serious one which justified the punishment of removal from service. The appellant was ordered to be restored to service with back wages.

4. The High Court in a petition under Article 226 of the Constitution interfered with the order of the Board of Revenue by holding that his services could not have been restored and at the most appellant could have been awarded damages.

5. The record does not indicate that such an objection had been raised in the forums up to the Board

of Revenue. Whether this cooperative society came within the purview of Article 12 of the Constitution has not been examined by the High Court. The status and the conditions of service have also not been considered. We are inclined to agree with the counsel for the appellant that the High Court should not have interfered in the matter. We accordingly allow the appeal, set aside the decision of the High Court and restore that of the Board of Revenue.

6. There would be no order for costs.

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