

Parmod Kumar Shahi and others

Vs

State of Bihar and others

Civil Appeal No. 814 of 1992

(M. N. Venkatachaliah, A. M. Ahmadi, B. P. Jeevan Reddy JJ)

14.02.1992

JUDGMENT

1. We have heard Mr. P.P. Rao, learned senior counsel for the petitioners, Mr. A. Sharan, for the Sitamarhi Central Co-operative Bank (respondent No. 5) and Mr. A. K. Srivastava for the four intervenors. The appellants seek leave to appeal to this Court from the judgment and order dated 5th October, 1989 of the High Court of Judicature at Patna in CWJC No. 8530 of 1988. Special leave granted.
2. The nineteen appellants and the four intervenors were originally working as Managers of the Primary Agricultural Cooperative Society (PACS) in Sitamarhi district. Their services were taken over on deputation as Assistants/Cashiers by the Sitamarhi Central Cooperative Bank, Respondent No. 5 herein, over the years between 1977 and 1982. Later on, by an order dated 5th August 1988 the services of the nineteen appellants were absorbed in the said posts in the Bank and they assumed office on 10th August 1988. The result of the absorption was that their substantive lien on the posts which they held earlier as Managers of the Primary Agricultural Co-operative Society, stood terminated. But on 17th September 1988 respondent No. 5 terminated their services by purporting to cancel those orders of absorption. The appellants filed the writ petition in the High Court on 22nd August 1988 and the same was dismissed on 5th October 1989.
3. The nineteen appellants were amongst those who had originally been absorbed. The four intervenors were on similar deputation but no orders of absorption had been made in their cases. But they are all similarly situated. The services of all these persons were taken on deputation by Respondent No. 5 on the ground of paucity of personnel and on exigencies of work. The Registrar, Co-operative Societies in Bihar by his letter No. 3647 dated 4th April 1988 issued directions for the absorption of the services of these erstwhile managers of the Primary Agricultural Cooperative Societies in the Bank's service subject to the satisfaction of certain conditions pertaining to educational and other qualifications. Thereupon, the Bank itself proposed to absorb them provided the candidates held a degree of a recognised University; had worked in the Bank on deputation for more than six years and that their work in the previous six years was satisfactory continuously.
4. On 14th January 1991 we had directed the Bank to state whether the nineteen appellants and the four intervenors would satisfy these conditions and whether there were adequate number of vacancies, excluding those reserved for Scheduled Castes etc. to accommodate them. In response to that order an affidavit has been filed on 8th February 1991 in which the Managing Director of the Bank has furnished the requisite particulars. It would appear that apart from the reserved posts, there

are now 21 vacant posts of Assistants/ Cashiers and eight posts of Loan Officers. The two posts, it is stated, are interchangeable posts and carry the same emoluments. This is common ground between the parties.

5. In order that this controversy be settled we asked the learned counsel for Respondent No. 5 whether it would not be appropriate that the appellants and the intervenors be absorbed against the existing vacancies of Assistant/ Cashier and Loan Officers in the Bank. Sri Sharan, appearing for the respondent-Bank stated that the Bank would leave the matter to the Court and would accept any direction which the Court finds reasonable to settle the controversy. In the facts and circumstances of the case and in view of the long period over which these persons have functioned in the posts it is proper that they should be absorbed in the service of the Bank.

6. We accordingly set aside the order of the High Court and direct that the nineteen appellants and the four intervenors be absorbed in the aforesaid posts of Assistant/ Cashier and Loan Officers in the respondent No. 5 Bank. The absorption shall take effect from 1st March 1992 from which date onwards they will cease to be on deputation and shall hold substantive post of Assistant/ Cashier and Loan Officer in the Bank on absorption. They will also cease to have any benefit of deputation including the deputation allowance, if any. The appeal is disposed of accordingly. No costs. Order accordingly.

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