

R.C. Tiwari vs M.P. State Co-Operative ... on 9 April, 1997

Equivalent citations: AIR 1997 SUPREME COURT 2652, 1997 (5) SCC 125, 1997 AIR SCW 2615, 1997 ALL CJ 2 1145, (1997) 3 SCR 795 (SC), (1997) 2 CTC 34 (SC), (1997) 5 JT 95 (SC), 1997 (3) SCALE 741, 1997 (2) CTC 34, 1997 (5) JT 95, 1998 (1) SERVLJ 42 SC, 1997 (3) SCR 795, 1997 SCC (L&S) 1128, (1997) 90 FJR 468, (1997) 76 FACLR 383, (1997) 4 LANDLR 112, (1997) 2 SCT 793, (1997) 5 SUPREME 196, (1997) 3 SCALE 741, (1997) 1 CURLR 990, (1997) 2 LABLJ 236, (1997) 2 LAB LN 464, (1997) 4 SERVLR 688

Bench: K. Ramaswamy, D.P. Wadhwa

PETITIONER:

R.C. TIWARI

Vs.

RESPONDENT:

M.P. STATE CO-OPERATIVE MARKETING FEDERATION LTD. & ORS.

DATE OF JUDGMENT:

09/04/1997

BENCH:

K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Delay condoned.

The only question in this case is: whether the reference under Section 10(1) of the Industrial Disputes Act, 1947 (for short, the "Act") is maintainable in view of the provisions contained in the M.P. Co-operative Societies Act, 1960 (for short, the 'Societies Act')? Admittedly, the petitioner was dismissed from service for his misconduct. Thereafter, he sought a reference under the Societies Act which was confirmed and became final. On a reference made under the Act, the Labour Court in case No. 45/85 held that domestic enquiry was vitiated by illegality and accordingly it set aside the

order of dismissal. In Writ Petition No. 2077/92 by judgment dated July 8, 1996, the High Court has held that in view of the provisions contained in Section 55 of the Societies Act, the Labour Court has no jurisdiction and, therefore, the reference is bad. It is also held that since the finding was recorded by the Depty Registrar, Co- op. Societies against the petitioner in the award, it operates as res judicate. The question is whether the view taken by the High Court is correct in law. Section 55 of the Societies Act postulates thus:

"55. Registrar's power to determine conditions of employment in societies. - (1) The Registrar may, from time to time frame rules governing the terms and conditions of employment in a society or class of societies and the society or class of societies to which such terms and conditions of employment are applicable shall comply with the order that may be issued by the Registrar in this behalf.

(2) Where a dispute including a dispute regarding terms of employment working conditions and disciplinary action taken by a society, arises between a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding on the society and its employees.

Provided that the Registrar or the officer referred to above shall not entertain the dispute unless presented to him within thirty days from the date of the order sought to be impugned.

Provided further that in computing the period of limitation under the foregoing proviso the time requisite for obtaining copy of the order shall be excluded."

Learned counsel for the petitioner seeks to place reliance on Section 64 of the Act dealing with disputes referable to the arbitration and contends that the dispute of dismissal from service of the employee of the society being not one of the disputes referable to the arbitration under the Societies Act, the award of the Dy. Registrar is without jurisdiction. He relied on the decision of this Court in Co-operative Central Bank Ltd. & Ors. etc. [AIR 1970 SC 245]. He also places reliance on Section 93 of the Societies Act which states that nothing contained in the Madhya Pradesh Shops and Establishments Act 1958, the M.P. Industrial Workmen (Standing Orders) Act, 1959 and the M.P. Industrial Relations Act, 1960 shall apply to a Society registered under this Act. By necessary implication, application of the Act has not been excluded and that, therefore, the Labour Court has jurisdiction to decide the matter. We find no force in the contention. Section 55 of the Societies Act gives power to the Registrar to deal with disciplinary matters relating to the employees in the Society or a class of Societies including the terms and conditions of employment of the employees. Where a dispute relates to the terms of employment, working conditions, disciplinary action taken by a Society, or arises between a Society and its employees, the Registrar or any officer appointed by him, not below the rank of Assistant Registrar, shall decide the dispute and his decision shall be binding on the society and its employees. As regards

power under Section 64, the language is very wide, viz., "Notwithstanding anything contained in any other law of the time being in force any dispute touching the constitution, a management or business of a Society or the liquidation of a Society shall be referred to the Registry by any of the parties to the dispute." Therefore, the dispute relating to the management or business of the Society is very comprehensive as repeatedly held by this Court. As a consequence, special procedure has been provided under this Act, Necessarily, reference under section 10 of the Societies Act stands excluded. The judgment of this Court arising under Andhra Pradesh Act has no application to the facts for the reason that under that Act the dispute did not cover the dismissal of the servants of the society which the Act therein was amended.

Admittedly, there is a finding recorded by the Dy. Registrar upholding the misconduct of the petitioner. That constitutes *res judicata*. No doubt, section 11 CPC does not in terms apply because it is not a Court, but a Tribunal, constituted under the Societies Act is given special jurisdiction. So, the principle laid down thereunder *mutatis mutandis* squarely applies to the procedure provided under the Act. It operates as *res judicate*. thus, we find that the High Court is well justified in holding that the Labour Court has no jurisdiction to decide the dispute once over and the reference itself is bad in law.

The special leave petition is accordingly dismissed.