

CASE NO.:
Appeal (civil) 1395 of 2001

PETITIONER:
ZILA SAHAKARI KENDRIYA BANK MARIYADIT

Vs.

RESPONDENT:
JAGDISHCHANDRA & ORS.

DATE OF JUDGMENT: 21/02/2001

BENCH:
D.P. Mohapatra & S.N. Variava.

JUDGMENT:

S. N. VARIAVA, J.
L...I...T.....T.....T.....T.....T.....T...J

Leave granted.

Heard parties.

This Appeal is against an Order dated 18th January, 2000. Briefly stated that facts are as follows :

Respondent No. 1 was employed by the Appellant Bank as a Samiti Sevak. A show cause notice was issued to him to explain certain financial irregularities and embezzlement of monies by not depositing loan amounts recovered from the members. On receipt of the show cause notice Respondent No. 1 made good to the Bank the amounts. Respondent No. 1 did not reply to the show cause notice. Services of the Respondent No. 1 were, therefore, terminated on 10th August, 1977. Respondent No. 1 filed a suit under Section 55(2) of the Madhya Pradesh Co-operative Societies Act, 1960, for setting aside the order of dismissal. Respondent No. 1 claimed the reinstatement with back wages. The Assistant Registrar held on evidence that the Respondent No. 1 was guilty of the conduct alleged. However, the Assistant Registrar noted that there had been no inquiry before services were terminated. The Assistant Registrar therefore declared the dismissal as illegal and directed reinstatement but without back wages. On Appeal by the Appellants the order of reinstatement without back wages was maintained.

On further Appeal to the Board of Revenue it was held that the Respondent No. 1 was entitled to back wages. The Writ Petition filed by the Appellants was dismissed by the impugned order dated 18th January, 2000. It was held that once it was held that services were terminated unlawfully then as a necessary consequence the employee would be entitled to back wages.

In our view the Order passed by the Assistant Registrar

was correct. On facts it had been found that the Respondent No. 1 had embezzled certain monies. The monies were returned by him only after the show cause notice was issued to him. His termination was set aside only on technical grounds inasmuch as no inquiry was conducted. Under such circumstances the Assistant Registrar correctly did not award any back wages. In our view, on facts of this case, the order directing payment of back wages cannot be sustained.

Accordingly we maintain the order of reinstatement but set aside that portion of the Order which directs payment of back wages.

The Appeal stands disposed of accordingly. There shall be no Order as to costs.

(D.P. MOHAPATRA)

(S. N. VARIAVA)

February 21, 2001.