PETITIONER:
THE PATIALA CENTRAL COOPERATIVEBANK LTD.

Vs.

RESPONDENT:
THE PATIALA CENTRAL COOPERATIVEBANK EMPLOYEES UNION & ANR.

DATE OF JUDGMENT: 16/09/1996

BENCH:
SEN, S.C. (J)
BENCH:
SEN, S.C. (J)
JEEVAN REDDY, B.P. (J)
MAJMUDAR S.B. (J)

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T
W I T H
[Civil Appeal No.4074/88; and 4075-76/88]

S.B. Majmudar, J.

I have gone through the judgment prepared by my esteemed learned brother Sen, J. I am in entire agreement with the finding reached by learned brother Sen, J., that the Agreement governed by the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') dated 28th May 1973 which had a life of four years, expired on 31st March 1977 which had thereafter even though its effects continued as per Section 19 sub-Section (2) of the Act and were binding on the parties, the entire agreement including the clause relating to dearness allowance was terminated by one of the parties to the Agreement, namely, the Central Cooperative Bank when the administrator appointed under Section 28 of the Punjab Cooperative Societies Act, 1961 issued a notice dated 25th February 1978 under Section 19(2) of the Act for terminating the said Agreement and when the said termination was ratified by the Directors of the Bank by Resolution No.7 at the meeting of the Board of Directors held on 9th April 1978. Consequently that Agreement ceased to operate thereafter. I also respectfully agree with the finding of my learned brother that this aspect of the case was not disputed on behalf of the Employees' Union in the counter affidavit affirmed by Maninderjit Singh, Joint Secretary of the Employees' Union and consequently the fact that notice was given on 25th February 1978 terminating the Agreement dated 28th May 1973 is not in dispute.

However on the aforesaid finding reached by my learned brother on the facts of this case and to which I respectfully agree, in my view, on further question survives for consideration in the present litigation between the parties, namely, whether Section 84-B of the Punjab Cooperative Societies Act, 1961 inserted by Punjab

Legislature by Amending Act 26 of 1981 was repugnant to the provisions of Sections 9A and 19(2) of the Industrial Disputes Act which was a Central Legislation. The High Court has taken the view, ignoring the factual position that the Agreement in question had stood terminated with effect from 25th February 1978, that Section 84-B was repugnant to the aforesaid provisions of the Act and as the enactment of the sad Section was covered by Entry 22 of the Concurrent List III of Schedule VII of the Constitution of India dealing with 'Trade Unions, Industrial and Labour Disputes', the said provision to the extent of repugnancy became void as per Article 251 read with Article 254 of the Constitution of India as admittedly the said provision Inserted by amending Act 26 of 1981 was not reserved by the State Legislature for consideration of the President and had not received his assent as required by Article 254 sub-Article (2) of the Constitution. In my opinion the said exercise was not open to the High Court on the admitted facts of the present case. That even under Section 19(2) of the Act the said Agreement had ceased to operate from 25th February 1978 and consequently there remained on question of any repugnancy of Section 84-B on the hand and Sections 9A and 19(2) of the Industrial Disputes Act on the other. In short that question did not arise for consideration of the High Court on the aforesaid well established facts on record. In my view once this factual conclusion is arrived at as rightly arrived at by my learned brother Sen, J., on occasion arises for this Court nor did it arise for the High Court to go into the legislative competence of the State Legislature in enacting Section 84-B and to examine and pronounce upon the said question. On this short ground, therefore, I would set aside the decision of the High Court declaring Section 84-B as ultra vires the State Legislature on account of repugnancy of Section 84-B with the provisions of Sections 9A and 19(2) of the Industrial Disputes Act. The appeal of the bank is required to be allowed on this short ground keeping the question of vires of Section 84-B open for consideration in an appropriate case. However, with great respect I do not concur with the view of my learned brother Sen, J., that the said section will operate even de hors the binding agreement under Section 19(2) of the Act. On this aspect I would express on opinion as that question, in my view, does not arise for consideration on the facts of the present case. I, however, agree with the final conclusion to which my learned brother Sen,., has reached that these appeals are required to be allowed, but on the aforesaid different reasoning.