

CHANAN SINGH

v.

REGISTRAR, CO-OP. SOCIETIES, PUNJAB & ORS.

March 18, 1976

[Y. V. CHANDRACHUD AND V. R. KRISHNA IYER. JJ.]

Imputation of misconduct against bank-employee—Enquiry by Secretary of bank—Explanation accepted and proceedings dropped—Revival of proceedings by Managing Director—No present grievance of punitive action—Writ petition premature.

Misconduct was imputed to the appellant by his employer, the second respondent. The then Secretary of the bank enquired into the allegations and, after issuing a notice to the appellant for showing cause against punishment, accepted his explanation and dropped the proceedings. Thereafter, the Managing Director of the Bank opined that the said Secretary was not empowered to punish a bank employee, and therefore, the proceedings culminating in the exoneration of the appellant were invalid. The proceedings were revived, and the appellant was suspended. His writ petition under Arts. 226 and 227 was dismissed by the High Court. On appeal by special leave, the appellant challenged the revival of the proceedings against him, as illegal and opposed to natural justice.

Dismissing the appeal, the Court,

HELD : (1) There is no present grievance of punitive action which can be ventilated in court. The writ petition is premature since no action has been taken finally, against the appellant. [687A]

(2) The co-operative bank has not been able to show any power to suspend an employee pending an enquiry. If that be so, the suspension of the appellant is plainly without the pale of law. [687B]

CIVIL APPELLATE; JURISDICTION : Civil Appeal No. 1137 of 1976.

Appeal by Special Leave from the Judgment and Order dated the 14-8-75 of the Punjab and Haryana High Court in C.W. No. 3995 of 1975.

J. Ramamurthi for the Appellants.

Janendra Lal and B. R. Agarwala for Respondents 2 and 3

The Judgment of the Court was delivered by

KRISHNA IYER, J. This appeal, by special leave, lends itself to a quick burial in view of the brief facts set out below.

The appellant has been an employee of the second respondent. A notice was issued to him to show cause why disciplinary action should not be taken against him for certain items of misconduct imputed to him. The then Secretary of the bank, Shri Daljit Singh, enquired into the allegations. Thereafter, on April 1, 1975 the Secretary issued a notice to the appellant to show cause why his next increment should not be stopped by way of punishment; A reply was sent by the appellant by way of explanation and the Secretary accepting the explanation dropped the proceedings by order dated April 9, 1975

A (Annexure III). Thereafter, the Managing Director taking the view that Shri Daljit Singh, Secretary, had no power to inflict punishment on the employees of the bank and that therefore the proceedings culminating in the exoneration of the appellant were invalid issued a fresh memorandum which concluded thus:

B "After considering the said enquiry report along with
other relevant documents, I am provisionally of the view
to impose upon you a penalty of dismissal from bank ser-
vices. Before doing so, you are asked to show cause
within 21 days from the receipt of this memorandum, why
C on account of findings of the said Enquiry Officer, into the
charges, you should not be dismissed from the bank ser-
vices. In case no reply is received within the prescribed
period, it will be presumed that you have no reply in this
D behalf and the proposed punishment will be imposed."

The appellant was also suspended on the same date, viz., 7th July
D 1975.

Thereupon, a writ petition under Arts. 226/227 was moved by the
appellant challenging the revival of the proceedings against him as
illegal and opposed to natural justice.

E The first point raised in objection by the second respondent is
that the writ petition is premature since no action has been taken
finally against the appellant, the disciplinary proceedings are still
pending and the explanation of the appellant is under consideration.
It is only in the event of the appellant being punished that any grievance
can arise for him to be agitated in the proper forum.

F Other obstacles in the way of granting the appellant relief were
also urged before the High Court and before us, but we are not inclined
to investigate them for the short reason that the writ petition
was in any case premature. No punitive action has yet been taken.
It is difficult to state, apart from speculation, what the outcome of
the proceedings will be. In case the appellant is punished, it is certainly
G open to him either to file an appeal as provided in the relevant
rules or to take other action that he may be advised to resort to. It
is not for us, at the moment, to consider whether a writ petition will
lie or whether an industrial dispute should be raised or whether an
appeal to the competent authority under the rules is the proper remedy,
although these are issues which merit serious consideration.

H We are satisfied that, enough unto the day being the evil thereof,
we need not dwell on problems which do not arise in the light of the

view we take that there is no present grievance of punitive action which can be ventilated in court. After all, even the question of jurisdiction to re-open what is claimed to be a closed enquiry will, and must, be considered by the Managing Director. On this score, we dismiss the appeal but, in the circumstances, without costs. A

Before parting with this case, we would like to make it clear that counsel for the co-operative bank has not been able to show any power to suspend an employee pending an enquiry. If that be so, the suspension of the appellant is plainly without the pale of law and he would be entitled to his salary during the period till final orders are passed. Since the matter has been pending long enough, we are assured by counsel for the respondent that final orders may be passed within one month from to-day. B C

M.R.

Appeal dismissed.