

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.15175 of 2009

ORDER:

The petitioner prays for Mandamus declaring the Award dated 09.07.2009 in Arbitration Claim Petition No.58/2009-10 on the file of Deputy Registrar of Cooperative Societies, Rajahmundry/1st respondent, as illegal, without jurisdiction and prays for setting aside the Award in its entirety.

The circumstances leading to the filing of the writ petition are substantially admitted and the issue is one of jurisdiction arising under the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act').

Now the only point for consideration is whether the 1st respondent has jurisdiction to entertain the claim at the instance of an employee for payment of gratuity or not?

The circumstances relevant for disposal are briefly stated hereunder:

The 2nd respondent raised Claim No.58/2009-10 before the 1st respondent under Section 61 of the Act for payment of gratuity. The 1st respondent entertained the claim and passed the impugned Award directing the petitioner to pay a sum of Rs.42,925/- towards gratuity for the period 27.01.1978 to 09.07.1990.

The petitioner is a society registered under the Act. The 2nd respondent worked as Secretary in the petitioner society between 1978 and 1990. The 2nd respondent was transferred from petitioner society to Z-Bhavavaram PACS and retired at the age of 58 on 31.01.2007. According to petitioner, the 2nd respondent never claimed gratuity from the petitioner society and if at all gratuity is payable, the

2nd respondent cannot invoke the jurisdiction of 1st respondent as if a dispute under Section 61 of the Act has arisen for resolution by the 1st respondent.

Section 61 of the Act reads thus:

61. Disputes which may be referred to the Registrar:-

(1) Notwithstanding anything in any law for the time being in force, if any dispute touching the constitution, management or the business of a society, other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society, arises-

(a) among members, past members and persons claiming through members, past members and deceased members ; or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society ; or

(c) between the society or its committee, and any past committee, any officer, agent or employee, or any past officer, past agent, or a past employee or the nominee, heir or legal representative of any deceased officer, deceased agent or deceased employee of the society ; or

(d) between the society and any other society, such dispute shall be referred to the Registrar for decision.

The jurisdiction of 1st respondent can be invoked if the circumstances stated therein are attracted. A plain reading of Section 61 of the Act clearly demonstrates that the service disputes and disciplinary matters are excluded from the jurisdiction of the 1st respondent. The learned counsel placed reliance on the following decisions:

Co-operative Central Bank Limited v. Additional Industrial Tribunal, A.P. ^[1], **Deccan Merchants Co-operative Bank Limited v. M/s. Dalichand Jugraj Jain** ^[2] and **The Gujarat State Co-operative Land Development Bank Limited v. P.R.Mankad** ^[3].

With the assistance of learned counsel appearing for the parties, I have perused the material available on record and also the citations relied upon by the petitioner. The decisions relied upon by the petitioner lay down the principle of law that the jurisdiction of Registrar under Section 61 of the Act for resolving a service dispute or a disciplinary matter is not available and cannot be invoked for resolving these matters. The jurisdiction is settled by Hon'ble Supreme Court in the decisions referred to above. The impugned Award is set aside as without jurisdiction. On the ground that the 1st respondent lacks jurisdiction, the impugned Award is set aside. The 2nd respondent is free to pursue the remedies available under the Payment of Gratuity Act or other forum provided by law for recovery of alleged gratuity dues. The writ petition is allowed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date:16.03.2016

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[\[1\]](#) AIR 1970 SC 245

[\[2\]](#) AIR 1969 SC 1320

[\[3\]](#) AIR 1979 SC 1203