

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.3746-3747/2003

(From the judgement and order dated 07/01/2003 and 8.11.01 in
CWP 18458/01 and COCP 941/00 of The HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH)

HARBHAJAN SINGH & ORS.

Petitioner (s)

VERSUS

NAWANSHAHR CENTRAL CO-OP. BANK LTD.&ORS

Respondent (s)

(With prayer for interim relief)
(For final disposal)

Date : 16/04/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE B.N. SRIKRISHNAFor Petitioner (s) Mr. Rajiv Atma Ram, Sr. Adv.
Mr. Ashok K. Mahajan, Adv.For Respondent (s) Mr. Sudhir Walia, Adv.
Mr. Mahinder Singh Dahiya, Adv.Mr. Jatinder K. Bhatia, Adv.
Mr. R.S. Suri, Adv.UPON hearing counsel the Court made the following
O R D E R

Leave granted.

Heard learned counsel for the parties for twenty minutes.
The appeals are disposed of in terms of the signed order.(R.K. DHAWAN)(VEERA VERMA)
COURT MASTER COURT MASTER(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2509-2510 OF 2004
(Arising out of SLP(C) Nos.3746-3747 of 2003)

Harbhajan Singh & Ors..... Appellants.

Versus

Nawanshahar Central Co-op. Bank Ltd. & Ors..... Respondents.

O R D E R

Leave granted.

Appellants were selected and appointed as employees of Nawanshahar Central Co-op. Bank Ltd. in 1996. In the year 1997, one Parmod Kumar and Budh Dass filed writ petition CWP No.12920/97 before the High Court of Punjab and Haryana alleging that the selection and appointment of these appellants were illegal as the selection process vitiated by so many irregularities and malpractices and the appellants herein were liable to be removed from service. When the writ petition came up for hearing, the counsel who represented the Nawanshahar Central Co-op. Bank Ltd. made a statement before the High Court that certain irregularities were noticed by the Bank in conducting the selection and the Bank would take steps to remove the respondent nos. 6 to 44 (appellants herein) from service. Though the appellants herein contended that the writ petition itself was not maintainable, that plea was not accepted and in view of the statement of the counsel for the Bank, the Division Bench on 2nd June, 1999, disposed of the writ petition as infructuous.

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After this judgment the appellants were served with the notices for enquiry and they approached the Registrar of the Co-op Societies and obtained a stay of the enquiry. Meanwhile Pramod Kumar and Budh Dass who filed writ petition before the High Court filed a contempt petition before the High Court alleging that respondent-Bank failed to implement the order of the High Court dated 2nd June, 1999, and the High Court by the impugned judgment directed the removal of these appellants from service. The High Court was of the view that the failure to take steps to remove these appellants from service amounted to grave violation of orders passed on 2nd June, 1999 in the writ petition. Accordingly the appellants herein were removed from service by an order dated 8.11.2001. Aggrieved by this order passed in the contempt proceedings the present appeals have been filed.

We heard learned counsel for the appellants and respondents.

Learned counsel for the appellants pointed out that there was no proper enquiry by any authority before the removal of these appellants from service and that they were denied the opportunity of hearing before the High Court when the CWP No.12920/1997 came up for consideration and their contentions were not considered at all in view of the submissions made by the counsel for the Bank. It is also submitted by the counsel that in the contempt proceedings the High Court should not have ordered the removal of these appellants from service, as no enquiry was made by the Bank to find out whether there was any illegality in the process of selection and it is argued that these appellants

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joined in 1996 and continued till 2001 and they had been terminated from service without there being a proper hearing.

The counsel for the respondent Bank on the other hand contended that the original selection of these appellants were vitiated by so many irregularities and that was noticed and in this background the counsel for the Bank made statement before the Division Bench while considering the Civil Writ Petition No. 12920/1997 and pursuant to the order passed on June 2, 1999 Bank was about to take steps for enquiry but they were successfully prevented from taking any action by an interim stay granted by the Registrar. It was submitted that in the contempt proceedings order was passed by the High Court to remove these appellants from service and the Bank had no other alternative but to implement the same.

The facts and circumstances show that no proper procedure was followed by the Bank in removing the appellants from service. The High Court in contempt jurisdiction should not have passed an order of removal of the appellants from service without there being proper enquiry. The Bank should have conducted a proper enquiry to find out the irregularities, if any, committed in the process of selection of candidates and based on that report alone the candidates who were already appointed could have been removed from service. The candidates should have been given a reasonable opportunity of being heard before their removal from service. The appellants removal from service is without following proper procedure and it amounted to violation of principle of natural justice.

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Therefore, the first respondent is directed to conduct fresh enquiry in the matter and if there was any irregularity in the selection process held in 1996 and Bank shall pass appropriate orders and we record the appellants herein will not claim for any back wages in case they are appointed again after the enquiry. Till the enquiry is over, the appellants shall have to remain out of service. The respondent Bank shall complete the enquiry and pass orders within a

period of six months from today. The appellants shall be given notice and they shall be given a reasonable opportunity of being heard in the matter. If the respondent-Bank found that there was no irregularity in the selection process, the appellants shall be reinstated in service with all consequential benefits including continuity of service except back wages. The appeals are disposed of accordingly.

.....J
(K.G. BALAKRISHNAN)

.....J
(B.N. SRIKRISHNA)

NEW DELHI;
APRIL 16, 2004.