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SLP(C)No. 15412-15413 OF 2001

ITEM No.45

Court No. 2

SECTION XV
A/N MATTER

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.15412-15413/2001
(From the judgements and orders dated 27/07/2000 and 05/02/2001 in
CWP 8575/99 and RA 452/01 in CWP 8575/99 respectively of the
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SONEPAT CENTRAL CO-OP. BANK LTD.

Petitioner (s)

VERSUS

SUKHBIR SINGH

Respondent (s)

(With prayer for interim relief and office report)
(With Appln(s). for c/delay in filing SLP)

Date : 11/02/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Mr. S S Dahiya, Adv.
Mr. Kamal Baid and Mr. Debasis Misra, Advs.

For Respondent (s) Mr. R.C. Kaushik, Adv.
Mr. J P Singh and Mr. Ujjal Singh, Advs.

UPON hearing counsel the Court made the following
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Delay condoned.

Special leave granted.

(D.P. WALIA)
COURT MASTER

(SHELLY SENGUPTA)
COURT MASTER

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Sonepat Central Co-operative Bank Ltd. ..Appellant(s)

Versus

Sukhbir Singh ..Respondent(s)~

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Special leave granted.

In the instant case, an inquiry was conducted against the respondent on allegations which had been framed. After the conclusion of the inquiry, inter alia, on allegation of embezzlement, the respondent was dismissed from service. The Labour Court set aside this decision and the General Manager of the Co-operative Bank filed a petition before the High Court. The High Court took note of the fact that in the proceedings of the meeting of the Board of Directors held on 27th May, 1999, it had been decided to implement the decision of the Labour Court and to take back the respondent in service. In view of this, the High Court came to the conclusion that the General Manager could not have filed the petition in the High Court.

Our attention was drawn to a letter dated 2nd June, 1999 written by the Assistant Registrar of Co-operative Societies, who was the Government nominee on the Board of Directors. In this letter, it has, inter alia, been stated that when the minutes of the meeting were received, the said Assistant
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Registrar was suprised to see that the decision which was recorded, inter alia, in respect to this item, was totally different and had been changed. He, therefore, placed on record his dissent and also stated that the Bank should go in appeal 'in a senior court' against the decision of the Labour Court.

Under the circumstances, the decision of the General Manager to file a writ petition was in order. It has not been stated by the High Court that the General Manager was incompetent to file a writ petition. He was certainly looking after the interest of the Bank. Merely because, there was a resolution to implement the decision of the Labour Court, cannot automatically lead one to the conclusion that it had been decided not to challenge the said decision. It is possible to take a view that pending further challenge, the order be implemented.

We are satisfied that in the instant case, the General Manager acted in the best interest of the appellant-Bank and further under Rule 48 of the relevant Bye-laws the General Manager is authorised and competent to file a writ petition.

For the aforesaid reasons, these appeals are allowed and the impugned decisions of the High Court are set aside. The High Court should now re-hear Civil Writ Petition No. 8575/1999 on merits after notice to the respondent and decide the case afresh as soon as possible.

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.....J
(B.N. KIRPAL)

New Delhi
February 11, 2002.

.....J
(ARIJIT PASAYAT)