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~ ITEM NO.10 0 COURT NO.7 SECTION XV
(PH)

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.8280-8281/1997

Rajajinagar Coop. Bank Ltd. .. Appellant (s)

Vs.

K. Gururaj & Anr. .. Respondent(s)

DATE : 6.12.2000 : This/These matter (s) was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE S.N. VARIAVA

For Appellant (s) : Mr. M.K. Dua, Adv.

For Respondent (s) : Mr. S. Ravindra Bhat, Adv.
Ms. Lalit Mohini Bhat, Adv.
Mr. Naveen R Nath, Adv.

UPON hearing counsel the Court made the following

O R D E R

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The appeals are allowed. There will be no order as
to costs.

.SP1
Charanjit [Meena Trikha]
Court Master

[Signed order is placed on the file]

Rajajinagar Coop. Bank Ltd. .. Appellant

Vs.

K. Gururaj & Anr. .. Respondents

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These appeals are directed against orders made by the High Court in writ proceedings, firstly by a learned Single Judge and thereafter by a Division Bench affirming an award passed under the Industrial Disputes Act (in short the 'Act'). The dispute between the parties was directly raised under Section 10 (4-A) of the Industrial Disputes (Karnataka Amendment) Act, 1957 calling in question termination of the services of first respondent (hereinafter referred to as the 'respondent') as contrary to the provisions of Section 25-F of the Act.

Facts leading to this dispute are as follows :

The Respondent had been employed from 1.1.1987 in the Appellant's Bank and was placed on probation for a period of one year. His period of probation was extended twice, firstly up to the period of 10.6.1988 and thereafter upto 31.12.1988. On an inspection of the Bank in terms of Section 65 of the Karnataka Cooperative Societies Act it was noticed that the appointments of seven person including the Respondent are

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illegal and irregular. On receipt of a show cause notice the Bank decided to terminate the services of all the seven employees who had been illegally appointed. Thus the order of termination dated November 6th, 1988 was sent to the Respondent. The Bank was subsequently superseded and an Administrator too was appointed who made recommendation in 1991 for regularisation of six employees whose services were dispensed with along with the Respondent. However, the Administrator did not make such recommendation so far as the Respondent was concerned in view of his poor service profile. It is thereafter the dispute was raised by the Respondent that his services too should have been continued.

The contention put forth on behalf of the Respondent was accepted by the Labour Court principally on the basis that there is no compliance of Section 25-F of the Act inasmuch as the Respondent had been serving the appellant-Bank from 1.1.1987 and his services were sought to be put an end to only by the order made on 6.11.1988. Before the Labour Court the Appellant contended that Section 25-F would not be attracted inasmuch as the services of the Respondent had been put an end to during the period of probation, but the same was not considered. That is how the award was made in favour of the

Respondent. Unfortunately, the learned Single Judge while dealing with the Writ Petition held that contention had not been raised before the Labour Court though at earlier stage of the order he noticed that the appellant had raised such a

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contention to the effect the termination of the Respondent was within the period of probation. Apart from contending that original appointment was illegal it was also contended that the services of the Respondent were put to an end to during the period of probation. Thus, the learned Single Judge did not examine the matter with the necessary care required in such a matter before recording findings contrary to the record and reject the contention.

The order of termination itself sets out these facts and the pleadings raised before the Labour Court also indicate that the period of probation was due to expire only on 31.12.1988 while order of termination of services is of 6.11.1988. If that is so, when dispensation of services of Respondent is prior to the probation period coming to an end to and in terms of that order of appointment, we fail to understand as to how Section 25-F would be attracted in this Case.

However, Shri S Ravindra Bhat, learned counsel for the respondent very vehemently contended that in the present case it is not very clear from the material placed before the Labour Court or before the High Court that there has been extension of the probation period beyond 30.6.1988. We do not think this contention is correct in as much as the order of termination itself refers to this aspect of the matter and the pleadings raised before the Labour Court as well as before the High Court make it very clear that the extended period of

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probation was due to expire on 31.12.1988. Thus, the facts are clear in this case that termination was within the period of probation.

Shri Bhat, undaunted by these facts very valiantly combated to contend that the termination of the services of the Respondent has been for extraneous reasons other than the one that is reflected in the order namely that he had been charged with irregularities in relation to drawing a sum of Rs. 45,000/- from SB Account 17291 of G. Rangaswamy. After a preliminary inquiry it is claimed that he is exonerated and thus there is no reason for the appellant to continue with any inquiry or bear that aspect in mind in discharging his services. It is not necessary to examine this aspect of the matter. When the services of the Respondent were required to be continued, regularised or confirmed after the period of probation his service record is examined and since the same is not satisfactory his services were discharged. Thus the Respondent was not found suitable to be continued in service of the Appellant. Hence we do not think the order of termination is bad. Therefore, we hold that the order of termination of the Respondent was in terms of stipulation contained in his appointment order and we set aside the award made by the Labour Court as affirmed by the High Court. The appeals are allowed. There will be no order as to costs.

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[S. RAJENDRA BABU]@@
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New Delhi,@@
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December 6, 2000@@
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