

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2757 OF 1998@@
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Bhiwani Central Coop. Bank Ltd. Haryana ...Appellant (s)

Versus

Registrar Coop. Societies Haryana & Anr. ...Respondent(s)

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The employer-bank is in appeal against the judgment of the Division Bench of the High Court of Punjab & Haryana dated 15th May, 1997. The respondent was an employee of the bank and was serving as Secretary of the Bank. He was transferred on 28.8.1993. On the basis of certain findings in the Audit Report, the employer initiated a disciplinary proceeding making a charge that the respondent has embezzled the money from the Bank. In course of inquiry, the Inquiry Officer held the respondent guilty of the charge and ultimately on the basis of the report of the Inquiry Officer, the Bank as the employer, issued notice to the respondent and the Board of Directors of the Bank in its resolution No. 16 dated 20th of March, 1995 resolved that the respondent be dismissed from service. The order of termination pursuant to the aforesaid resolution was passed on 25th March, 1995. The respondent, however, preferred an appeal as provided under the provisions of Cooperative Societies Act to the Registrar on 4.4.1995. Before the Appellate Authority the Bank also filed its reply. By order dated 13th August, 1996, the Appellate Authority came ...2

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to the conclusion as under:

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".....A perusal of the records revealed that this amount, somehow, was not entered in the cash book and on account of missing entry, the appellant was charge sheeted. But it is evident from the audit report of this period that this amount was not embezzled. In fact, there was no embezzlement during this period. The respondent could not prove his claim that the appellant deposited this amount on 31.08.1993 as there is no such record with the respondent bank to show that this amount was deposited on 31.08.1993."

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Appellate Authority, therefore, having recorded a finding that there has been no embezzlement the charges could

not have been said to have been established and as such set aside the order of termination and directed reinstatement of the respondent. The Bank assailed the said order of the Appellate Authority by filing a writ petition. The Division Bench of the High Court, on consideration of the order of the Appellate Authority, came to hold that there does not appear to be any error in the order of the Appellate Authority, much less an error of law apparent on the face of the order which could be corrected by the High Court in exercise of its certiorari jurisdiction. The writ petition having thus been dismissed, the present appeal has been preferred on grant of special leave.

Mr. Manoj Swarup, appearing for the Bank vehemently contended that the Registrar, as the Appellate Authority, committed serious error of law in arriving at its conclusion

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that the charge of embezzlement has not been proved and on the other hand the delinquent-respondent admitted in his reply to the show cause notice that the amount in question was deposited only on 31.8.1993 and, therefore, the Appellate Order of the Registrar suffers from the patent error which could be established on the basis of the entry in the cash book and consequently the said Appellate Order should have been corrected by the High Court in a writ of certiorari. Mr. Swarup further contends that in the aforesaid circumstances and taking into account the nature of charges against the delinquent it would be meet and proper for this Court to interfere with the order of the High Court as well as that of the Appellate Authority.

The learned counsel appearing for the respondent, on the other hand, contended that the Appellate Authority himself having examined the records of the disciplinary proceedings and having come to a conclusion that it was only a case of missing entry and not a case of embezzlement, there was hardly any room for interference by the High Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India and therefore the judgment of the High Court remains unassailable.

Having examined the rival contentions and having scrutinised the judgment and the order of the Registrar who is

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the Appellate Authority under the Act and in view of his conclusion as quoted above, we find sufficient force in the contention of the learned counsel appearing for the respondent. It is too well settled that in exercise of its power under Article 226 of the Constitution against the finding of an inferior Tribunal, the High Court would be justified in interfering with only if it comes to the conclusion that either the order of the tribunal is contrary to some provisions of law; or the order of the tribunal is based upon certain in-admissible evidence; or the tribunal does not allow certain admissible evidence to be led in; or the the conclusion of the tribunal is such which no reasonable man would arrive at. Judged from the aforesaid stand-point and having examined the order of the Appellate Authority, we do not see any infirmity in the same which could be labelled as a patent error of law on the face of the record requiring interference by the High Court. In our considered opinion, the High Court did not commit any error in not exercising its certiorari jurisdiction under Article 226 when the Bank moved the High Court against the appellate order.

In the aforesaid premises, we see no merits in this appeal which accordingly stands dismissed.

(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)