

Before M. R. Agnihotri & V. K. Jhanji, JJ.

MADAN LAL,—Petitioner.

versus

THE REGISTRAR COOPERATIVE SOCIETIES, PUNJAB,
CHANDIGARH AND OTHERS.—Respondents.

Civil Writ Petition No. 4573 of 1979.

15th July, 1991.

Constitution of India, 1950—Art. 226 & 311—Dismissal—Copy of enquiry report not supplied to delinquent official before final order was passed imposing major punishment—Non-supply is fatal to dismissal—Decision in Mohd. Ramzan Khan's case applies equally to Government servants and to other employees governed by statutory service rules—Observation of Supreme Court in Mohd. Ramzan Khan's case that the decision "shall have prospective application and no punishment imposed shall be open to challenge on this ground"—Interpretation of—Law declared by Supreme Court will apply to pending cases—Employee is entitled to reinstatement as though the impugned order was never passed.

Held, that the decision of the Supreme Court in Mohd. Ramzan Khan's case is not distinguishable on the ground that it applies only to government servants and not to other employees. So far as the applicability of the principles of natural justice is concerned, the relationships of master and servant will not permit any such consideration to be countenanced, the result whereof may place an employee of the co-operative society governed by the statutory service rules at a lower level or at a disadvantageous position than an employee of the State Government. (Para 4)

Held, that their Lordships of the Supreme Court while deciding Mohd. Ramzan Khan's case held that the observations "shall have prospective application and no punishment imposed shall be open to challenge on this ground." This certainly does not mean that the law laid down by their Lordships will not be applicable even to the cases which are subjudice and are still pending adjudication in the High Courts in the country. (Para 4)

Held, that the orders of dismissal and the order of appellate authority are quashed. Resultantly, the petitioners shall be reinstated in service and paid the arrears of salary and other allowances to which they would have been entitled had the impugned orders of dismissal from service not been passed against them. (Para 5).

Amended writ petition under Articles 226 and 227 of the Constitution of India praying that the Hon'ble Court may be pleased to issue an appropriate writ order or direction:—

- (a) for setting aside the orders passed by Shri A. S. Sodhi, Addl. Registrar, Co-operative Societies appointing Shri I. S. Bindra, IAS as Administrator of the Markfed in February, 79 and the order extending the tenure of Shri I. S. Bindra as Administrator of Markfed by Shri Sodhi.

(b) for setting aside the orders contained in Annexure P/3 dismissing the petitioner from service passed by then Managing Director, Markfed and Annexure P/5 dismissing the appeal of the petitioner by Shri I. S. Bindra, Administrator.

(c) any other relief to which the petitioner is entitled to in law and equity.

It is further prayed that :—

(i) the record of the case be sent for ;

(ii) the cost of the petition be awarded to the petitioner ;

(iii) the petitioner may be exempted from service of notice of motion at this stage ; and

(iv) during the pendency of the writ petition operation of the orders contained in Annexure P/3 and P/5 may be stayed.

Mr. B. S. Khoji, Advocate, for the Petitioner

Mr. P. S. Patwalia, Advocate and Mr. H. S. Sethi Advocate, for the Respondent No. 1 to 5.

H. S. Sethi Advocate, for the Respondent No. 1 to 5.

Mrs. S. K. Bhatia, DAG, Punjab, for Respondent No. 6.

JUDGEMENT

M. R. Agnihotri, J.

(1) This order shall dispose of C.W.P. Nos. 4573 of 1979 (Madan Lal v. Registrar) and 31 of 1980 (B. K. Sethi v. Registrar). Though the cases have come before us on as reference dated 21st November, 1988, by the Learnd Single Judge of this Court, yet in view of the latest decision of their Lordships of the Supreme Court in *Union of India and others v. Mohd. Ramzan Khan*, (1), the matter need not be gone into and both the writ petitions can be disposed of on the short ground as they are covered by the same.

(2) After hearing the learned counsel, we find that the principal point involved in the writ petitions has already been decided in *Mohd. Ramzan Khan's case* (supra), as copy of the inquiry report was not supplied to the petitioners before the final order imposing major punishment of dismissal from service was passed against them.

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(3) The learned counsel for the respondents tried to distinguish the aforesaid judgment of their Lordships of the Supreme Court on the grounds that the case before the Hon'ble Supreme Court was of a Government servant whereas in the present cases, the petitioners are employees of the Punjab State Cooperative Supply and Marketing Federation Limited, Chandigarh, who are governed by the Punjab State Supply and Marketing Cooperatives Services (Common Cadre) Rules, 1967, and that the judgment of the Supreme Court is only prospective in nature and should not be applied retrospectively to the cases in hand where the impugned orders of dismissal from service were issued before the pronouncement of the judgment in *Mohd. Ramzan Khan's case* (*supra*).

(4) With respect to the learned counsel, we do not find any merit in either of the pleas raised by him. So far as the applicability of the principles of natural justice is concerned, the relationship of master and servant will not permit any such consideration to be countenanced, the result whereof may place an employee of the cooperative society governed by the statutory service rules at a lower level or at a disadvantageous position than an employee of the State Government. Secondly, their Lordships of the Supreme Court while deciding *Mohd. Ramzan Khan's case* held that the observations "shall have prospective application and no punishment imposed shall be open to challenge on this ground." This certainly does not mean that the law laid down by their Lordships will not be applicable even to the cases which are sub judice and are still pending adjudication in the High Courts in the country.

(5) In view of the aforesaid situation, we allow these petitions and quash the impugned orders of dismissal dated 23rd May, 1975 (Annexure P. 3) as well as the order of the appellate authority dated 5/6th September, 1979 (Annexure P. 5) in CWP. No. 4573 of 1979 (Madan Lal's case), and the order of dismissal dated 18th October, 1978 (Annexure P. 3) and the appellate order dated 10th October, 1979/5th November, 1979 (Annexure P. 5) in CWP. No. 31 of 1980 (B. K. Sethi's case). Resultantly, the petitioners shall be reinstated in service and paid the arrears of salary and other allowances to which they would have been entitled had the impugned orders of dismissal from service not been passed against them.

(6) There shall be no order as to costs.

R.N.R.

(1) 1991(1) S.L.R. 159.