

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 346 of 2017

- B. R. Srivas S/o Late Photkuram Srivas, Aged About 70 Years R/o Panchsheel Nagar, Ward No.1, Durg, Tehsil And District Durg, Chhattisgarh, Chhattisgarh

---- Appellant

Versus

1. Registrar, Co Operative Societies, Raipur Chhattisgarh, Chhattisgarh.
2. General Manager, District Co-Operative Central Bank Ltd., Durg, Chhattisgarh.
3. Manager, District Co-Operative Central Bank Ltd., Durg, Chhattisgarh, District : Durg, Chhattisgarh
4. President, District Co-Operative Central Bank Ltd., Durg, Chhattisgarh.
5. Collector, Durg, District Durg, Chhattisgarh.
6. Sunderlal Chandrakar S/o Late Vishnu Prasad Chandrakar, Aged About 59 Years Retired Branch Manager, District Co-Operative Central Bank Ltd. Durg, Chhattisgarh, Branch Dhamdha.
7. Nanak Ram Agarwal S/o Late Ranmat Singh Retired Assistant Accountant, District Co-Operative Central Bank Ltd. Durg (CG) Branch Selud.
8. Koduram S/o Manrakhan Lal, Retired Assistant Chief Supervisor, District Co-Operative Central Bank Ltd. Durg (CG), Branch Bemetara.
9. Mayadas Manikpur Dead
10. Chaitram Singour S/o Shri Shivnandan Singh, Retired Supervisor District Co-Operative Central Bank Ltd. Durg (CG) Branch Selud.
11. Sukalram Sinha S/o Shri Koduram Retired Samiti Manager, District Co-Operative Central Bank Ltd., Durg (CG) Branch Devri.
12. Vishnu Prasad Kashyap S/o Shri Laxaman Prasad, Retired Branch Manager, District Co-Operative Central Bank Ltd. Durg (CG) Branch Saja.
13. Narayan Prasad Yadav (Dead)
14. Chhabilal Sahu S/o Shri Kanhiya Lal, Retired Supervisor, District Co-Operative Central Bank Ltd. Durg (CG) Branch Jamgaon (M).
15. Vishnu Ram Sahu S/o Shri Ramau Ram, Retired Supervisor, District Co-Operative Central Bank Ltd. Durg (CG), Branch Patan.
16. Ramji Patel S/o Shri Rambharosa Retired Supervisor, District Co-

Operative Central Bank Ltd. Durg (CG), Branch Jamgaon (M).

17. Guharam Deshmukh S/o Shri Govind Prasad, Retired Incharge Branch Manager, District Co-Operative Central Bank Ltd. Durg (CG), Branch Dallirajhara.
18. Suklal Nirmalkar (Dead)
19. Vindo Kumar Agrawal S/o Late Laxmi Prasad, Retired Assistant Accountant, District Co-Operative Central Bank Ltd. Durg (CG) Branch Than Khamariya.
20. Janak Lal Sahu (Dead)
21. Shiv Prasad Sahu (Dead)
22. Ramchand Sahu S/o Shri Ledguram, Retired Samiti Manager, District Co-Operative Central Bank Ltd. Durg (CG) Branch Gunderdehi.
23. Durga Prasad Tamrakar (Dead)
24. Madhav Prasad Kashyap S/o Shri Khubiram Kashyap, Retired Assistant Accountant , District Co-Operative Central Bank Ltd. Durg, (CG) Branch Jamgaon R.

---- Respondents

WA No. 364 of 2017

1. Bharat Lal Singh Thakur, S/o Late Ganga Singh, Aged About 60 Years, Retired Branch Manager, District Co- Operative Central Bank Ltd. Durg, Chhattisgarh, Branch Thankhamaria.
2. Shiv Ratan Singh Thakur, S/o Ramayan Prasad, Retired Branch Manager, District Co-Operative Central Bank Ltd. Durg, Chhattisgarh, Branch Nandgahat.
3. Lakhanlal Sinha, S/o Late Jikrakhanlal, Retired Assistant Accountant, District Co-Operative Central Bank Ltd. Durg, Chhattisgarh, Branch Supela, Chhattisgarh
4. Banke Singh Thakur, Retired Supervisor, District Co- Operative Central Bank Ltd. Durg, Chhattisgarh, Branch Berla.
5. Dhruv Narayan Sharma, S/o Shri Khilawan Prasad, Retired Supervisor, District Co-Operative Central Bank Ltd. Durg, Chhattisgarh, Branch Ahiwara.
6. Girdharlal Deshmukh S/o Late Chotturam, Retired Statistic Officer, District Co - Operative Central Bank Ltd. Durg, Chhattisgarh, Head Office, Durg.
7. Abhayaram Thakur S/o Late Johikram, Retired Branch Manager, District Co - Operative Central Bank Ltd. Durg, Chhattisgarh, Branch Jamagaon M.
8. Sunderlal Chandrakar S/o Late Vishnu Prasad Chandrakar, Aged About 59 Years, Retired Branch Manager, District Co - Operative Central Bank

Ltd. Durg Chhattisgarh., Branch Dhamdha.

9. Nanak Ram Agarwal S/o Late Ranmat Signh, Retired Assistant Accountant, District Co - Operative Central Bank Ltd. Durg Chhattisgarh, Branch Selud.
10. Chaitram Singour, S/o Shri Shivnandan Singh, Retired Supervisor District Co - Operative Central Bank Ltd. Durg Chhattisgarh, Branch Selud.
11. Sukaluram Sinha, S/o Shri Koduram Retired Samiti Manager District Co - Operative Central Bank Ltd. Durg Chhattisgarh Branch Devri.
12. Vishnu Prasad Kashyap S/o Shri Laxaman Prasad Retired Branch Manager, District Co-Operative Central Bank Ltd. Durg Chhattisgarh Branch Saja.
13. Vishnu Ram Sahu, S/o Shri Ramau Ram, Retired Supervisor District Co - Operative Central Bank Ltd. Durg Chhattisgarh, Branch Patan.
14. Guharam Deshmukh S/o Shri Govind Prasad Retired Incharge Branch Manager, District Co - Operative Central Bank Ltd. Durg Chhattisgarh., Branch Dallirajhara.
15. Vindo Kumar Agrawal, S/o Late Laxmi Prasad, Retired Assistant Accountant, District Co - Operative Central Bank Ltd. Durg Chhattisgarh., Branch Than Khamariya.
16. Ramcharan Sahu, S/o Shri Ledguram Retired Samiti Manager, District Co-Operative Central Bank Ltd. Durg Chhattisgarh, Branch Gunderdehi.
17. Madhav Prasad Kashyap S/o Shri Khubiram Kashyap Retired Assistant Accountant District Co - Operative Central Bank Ltd. Durg Chhattisgarh, Branch Jamgaon R.

---- Appellants

Versus

1. Registrar, Co-Operative Societies Raipur, Chhattisgarh.
2. General Manager, District Co-Operative Central Bank Ltd., Durg, Chhattisgarh.
3. Manager, District Co - Operative Central Bank Ltd., Durg Chhattisgarh.
4. President, District Co - Operative Central Bank Ltd., Durg, Chhattisgarh.
5. Collector, Durg, District Durg Chhattisgarh.
6. Gayaram Dewangan S/o Govindram Dewangan, Retired Lampus Manager, District Co - Operative Central Bank Ltd. Durg Chhattisgarh Branch Jamagaon M.
7. Kesho Ram Verma, S/o Shir Dwarika Prasad Retired Supervisor, District Co - Operative Central Bank Ltd. Durg Chhattisgarh.
8. Murli Ram Chandrakar, S/o Shri Mangluram, Retired Branch Manager,

District Co - Operative Central Bank Ltd. Durg Chhattisgarh.

9. Koduram S/o Shri Manrakhan Lal, Retired Assistant Chief Supervisor, District Co-Operative Central Bank Ltd. Durg Chhattisgarh Branch Bemetara.
10. B. R. Shrivastava, S/o Shri Photkuram Retired Branch Manager, District Co - Operative Central Bank Ltd. Durg Chhattisgarh Branch Dhamdha.
11. Chhabilal Sahu, S/o Shri Kanhaiya Lal, Retired Supervisor, District Co - Operative Central Bank Ltd. Durg Chhattisgarh Branch Jamgaon M.
12. Ramji Patel S/o Shri Rambharoshia, Retired Supervisor, District Co - Operative Central Bank Ltd. Durg Chhattisgarh Branch Patan.

---- Respondents

W.A. No.346 of 2017

For Appellants	:	Shri B.P.Singh, Advocate
For Respondent No.1 & 5	:	Shri Gagan Tiwari, Dy. Govt. Advocate
For Respondent No.2 to 4	:	Shri Ajay Thakre, Advocate.
For Respondents No.6 to 24	:	None

W.A. No.364 of 2017

For Appellants	:	Shri B.P.Singh, Advocate
For Respondent No.1 & 5	:	Shri Gagan Tiwari, Dy. Govt. Advocate
For Respondent No.2 to 4	:	Shri Ajay Thakre, Advocate.
For Respondents No.6 to 12	:	None

Hon'ble Shri Ajay Kumar Tripathi, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order on Board

Per Ajay Kumar Tripathi, CJ

20/02/2019

1. Two writ applications were heard together by learned Single Judge since common question of law was raised out of near identical set of facts.
2. The appellants were employees of what is known as 'District Cooperative Central Bank Limited, Durg (CG)'. While they were discharging their duties in the bank on the posts they so held, it is alleged that the Registrar, Cooperative Societies, Chhattisgarh, Raipur issued an order on 10.9.2004 amending Rule 72 of the Zila Sahakari Kendriya Bankon Ke Karamcharityo Ki Seva Nivratti Niyam by reducing the age of

superannuation from 60 years to 58 years, except for a set of employees like Watchmen, Jamadars, Peons & Gardeners.

3. By virtue of the said amendment all those persons which included the appellants were made to superannuate on attaining the age of 58 years. Most of them retired on or before 31.10.2005.
4. The appellants had more or less reconciled to the situation and their fate till the Registrar, Cooperative Societies, Raipur decided to act again by restoring back the age of superannuation from 58 years to 60 years w.e.f. 28.12.2006. This decision obviously created certain amount of heartburn against those who managed to survive the previous decision of reduction of age of superannuation and also by the fact that these appellants lost out two years of their valuable service towards fag end of their career.
5. Before the learned Single Judge the appellants pleaded discrimination amongst the same set of employees and sought quashing of the decision of amending the service conditions. They also assailed the decision of the Registrar, Cooperative Society, on the ground that the Registrar was not vested with such power any more after an amendment was brought about to the Chhattisgarh Cooperative Societies Act, 1960 (henceforth 'the Act of 1960') when Section 48C was inserted or incorporated w.e.f. 22.6.1995. Section 48C of the Act of 1960 is reproduced infra:-

“48C.-Powers of Committee.-The Board or the Committee of a society shall in accordance with the bye-laws, have power to-

- (a) admit and terminated membership;
- (b) elect the Chairman and other office bearers;
- (c) remove from office the Chairman and office bearers;
- (d) fix staff strength with the approval of the Registrar;
- (e) **frame policies concerning-**
 - (i) organization and provisions for services to members;
 - (ii) **qualifications, recruitment, service conditions of the staff and other matters relating to staff with the approval of the Registrar;**
 - (iii) mode of custody and investment of funds

- (iv) manner of keeping accounts;
- (v) mobilization, utilization and investment of funds;
- (vi) monitoring and management of information system including statutory returns to be filed;
- (f) place the annual report, annual financial statements, plan and budget for the approval of the general body;
- (g) consider audit and compliance reports and place the same before the general body; and
- (h) undertake such other functions as specified in the bye-laws.”
(emphasis supplied)

6. Learned counsel for the appellants submits that learned Single Judge committed error of law by dismissing the writ applications as a plain reading of Section 48C (e) (ii) of the Act of 1960 would indicate that the power to lay down conditions of service of the staff etc. of a cooperative society lay with the Committee or the Board. Since the decision was taken to amend the service rules of the bank by the Registrar of Cooperative Societies, therefore, the power has been exercised beyond the provisions of the Act of 1960.

7. Learned Single Judge did not accept such argument and even we have certain difficulties in accepting such a proposition for the reason that Section 48C is not a stand alone provision in the Act of 1960. The Court cannot overlook other sections and one such section of significance is Section 55 of the Act of 1960. Section 55 is reproduced herein below for ready reference:-

“55. Registrar's power to determine conditions of employment in societies.-(1) The Registrar may, from time to time, frame rules governing the terms and conditions of employment in a society or class of societies and the society or class of societies to which such terms and conditions of employment are applicable shall comply with the order that may be issued by the Registrar in this behalf.

(2) Where a dispute, including a dispute regarding terms of employment, working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding on the society and its employees:

Provided that the Registrar or the officer referred to above shall not entertain the dispute unless presented to him within thirty days from the date of order sought to be impugned:

Provided further that in computing the period of limitation under the foregoing proviso, the time requisite for obtaining copy of the order shall be excluded.”

8. Though an effort was made on the part of learned counsel for the appellants to create some kind of conflict existing in the statute book between Section 48C and Section 55 of the Act of 1960, but we do not find such a conflict because two provisions work in different areas. Section 48C gives power to the Board to formulate “policies” in relation to service conditions etc. of its employees which once approved by the Registrar, Cooperative Societies, partakes nature of law or rule, if not bye-laws. Whereas, a reading of Section 55 would show that the Registrar is the ultimate repository of all powers in relation to determination of conditions of employment in a society or class of societies or societies as such.
9. Section 48C of the Act of 1960 gives leeway to an individual society to formulate policies subject to approval by the Registrar. Whereas, Section 55 gives wide power to the Registrar to determine conditions of employment for a society or a class of society across the State.
10. The legislatures were conscious of the fact that ultimately the power has to be vested in an authority under the Act and that authority happens to be the Registrar. If for the conditions prevalent then the Registrar of Cooperative Societies exercised his power to lay down conditions of employment, in this case superannuation, for the societies, we hold that the Registrar had requisite powers to do so under Section 55 of the Act of 1960.
11. The law being what it is and we would like to reiterate that ample powers have been granted by the State Legislature under Section 55 of the Act of 1960 to take such decisions within the framework of the said section,

therefore, this decision cannot be assailed on the ground of the same being hit by Section 48C of the Act of 1960.

12. In this background, the view taken by the learned Single Judge refusing to interfere with the order cannot be said to be erroneous. Dismissal of writ applications, therefore, was not misplaced.

13. The appeals, therefore, fail for the reasons which have been provided in the earlier part of the order. Both the appeals, which were heard together, are therefore dismissed by this common order.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-