

Court No. - 34

Case :- SPECIAL APPEAL No. - 340 of 2019

Appellant :- The North Eastern And East Central Railway And 2 Others

Respondent :- Vishwajeet Singh And Another

Counsel for Appellant :- Anoop Trivedi, Atul Kumar Shahi

Counsel for Respondent :- A.S.G.I., Amit Saxena, Ankit Gaur, Deepak Kumar Singh, Rahul Agarwal, Vinay Kumar Pandey

Hon'ble Sudhir Agarwal, J.

Hon'ble Rajeev Misra, J.

1. Heard Sri Atul Kumar Shahi, Advocate, for appellants and Sri Rahul Agarwal, Advocate, for respondents.
2. Dispute raised in this appeal was relating to appointment of Acting Secretary of Chief Executive Officer of North Eastern and East Central Railway Employees Multi States, Primary Co-operative Bank Limited, Gorakhpur (hereinafter referred to as "Cooperative Bank"), since regularly appointed Secretary had gone on leave. Learned Single Judge by judgment under appeal dated 15.02.2019 has set aside order dated 16.01.2019 whereby Acting Secretary to Chief Executive Officer of Cooperative Bank was appointed in defiance of Employees Service Rules framed on 05.08.2013 approved on 13.09.2013.
3. It is stated that regularly appointed Secretary has now re-joined on 16.08.2019 and, therefore, the issue of appointment of Acting Secretary has become redundant and academic and for all practical purposes, cause of action no more survives.
4. Counsel for appellant contended that he is raising the issue of maintainability of writ petition in view of Supreme Court's judgment in **Ghaziabad Zila Sahkari Bank Vs. Addl. Labour Commissioner 2007 (11) SCC 756**.
5. We make it clear that judgment of learned Single Judge under appeal shall not be treated as precedent on the question that writ petition against

the Cooperative Bank in question is maintainable and can be raised and decided subsequently as and when the occasion arises but so far as present matter is concerned, since cause of action no more survives, therefore, we dismiss this appeal having rendered infructuous.

Order Date :- 30.9.2019

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