

17.01.2025
Sl. No.8
Ct. No.15
S.A.

WPA 18169 of 2024

**Subodh Kumar Mondal @ Subodhkumar Mondal
-vs-
The State of West Bengal & Ors.**

Mr. Soumyadeep Biswas

...for the petitioner

Mr. Srijan Nayak

Ms. Rituparna Maitra

...for the State

Mr. Ankit Sureka

Mr. Biplab Das

Mr. P. S. Pal

...for respondent nos.2, 3, 4 & 5

Mr. Md. Baharuzzaman

...for respondent nos.6, 7 & 8

The petitioner challenges his dismissal order issued by the Kishorpur Samabay Krishi Unnayan Samity, a cooperative society registered under the West Bengal Cooperative Societies Act, 2006.

It is undisputed that the petitioner retired as the Manager of the said society on April 30, 2022, upon reaching the age of 60. However, the Board of the Society passed resolutions regarding the extension of the petitioner's service, and consequently, the petitioner's service was extended for an additional period of five years. During the extension period, a show cause notice was issued by the society on June 26, 2024, alleging certain misconduct on the part of the petitioner. The petitioner responded to the notice on June 30, 2024. Following consideration of his reply, the impugned dismissal order was

communicated to the petitioner via email on July 11, 2024.

The society, as well as the Registrar of the Cooperative Society, contends that the petitioner's service could not be extended beyond the superannuation age of 60 years. Since the petitioner's service extension was illegal, they argue that, the question of an illegal dismissal does not arise in this case.

Regarding the extension of the petitioner's service, the petitioner's advocate has relied on a circular dated January 3, 2020, issued by the Registrar of the Cooperative Societies. The relevant part of the circular is quoted below:

".... Since section 134C (2) (d) of the West Bengal Co-operative Societies (Amendment) Act, 2010 has provided autonomy to Co-operative Credit Structure Entity in all financial and internal administrative matters including personnel policy, staffing, recruitment, posting and compensation to staff, the said Co-operative Credit Structure Entity may extend the tenure of service of its employees but the said policy of extension of service may first be approved by the members of such Co-operative Credit Structure Entity and included in the bye-laws in terms of section 19 of the West Bengal Co-operative Societies Act, 2006.

However, if the State Government has subscribed to the share capital of a Co-operative Society or guaranteed the principal and interest of loans and advances to the Co-operative Society or assisted the Co-operative Society with

loans and grants, prior approval of the State Government will be required while extending the tenure of service of its employees.”

As such, you are directed to note the same for future reference.”

The circular dated January 3, 2020, stipulates two conditions for the extension of service: a) The resolution to extend the service must be approved by the members of the cooperative society; and b) It must be included in the society's bye-laws, in accordance with Section 19 of the West Bengal Cooperative Societies Act, 2006.

In this case, it is evident that the resolution to extend the petitioner's service was adopted by the Board of the society, not by the society's members. Furthermore, while an application to amend the bye-laws was submitted to the Registrar of the Cooperative Society, the amendment has yet to be approved.

In light of these facts, I am of the opinion that the petitioner's service could not have been extended beyond the age of superannuation through a resolution adopted by the Board of the Society, without the necessary amendment to the society's bye-laws.

Given this, I conclude that the dismissal order issued to the petitioner, when he was no longer

holding the position of Manager in accordance with the law, should not be considered illegal by this Court.

The learned advocate for the petitioner challenges the dismissal also on the ground that no charge-sheet was filed, no inquiry was conducted, and the petitioner was not provided an opportunity for a hearing before being dismissed from service.

It appears that the society in question is not governed by Rule 106 of the West Bengal Cooperative Societies Rules, 2011, as it is a Credit Cooperative Society. Therefore, the petitioner's service conditions are in the realm of contract.

In the present case, the petitioner was issued a show cause notice, and after considering his response, the society decided to dismiss him. Therefore, there has been compliance with the principles of natural justice, and no charge-sheet or formal inquiry was required in absence of any service rules, before the dismissal order was issued.

The petitioner's counsel has relied on the judgment reported in **2018 (12) SCC 807 (State Bank of India v. Ranjit Kumar Chakraborty)**. However, I find that the said judgment does not assist the petitioner in the present case. The Hon'ble Supreme Court in that case held that the appointing authority could only have dismissed the petitioner

after adhering to the principles of natural justice, which were not followed in that instance. In contrast, in the present case, I have already concluded that the issuance of a show cause notice and the opportunity provided for the petitioner to respond fulfill the requirements of natural justice.

Accordingly, **WPA 18169 of 2024** is dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties on compliance of usual legal formalities.

(Kausik Chanda, J.)