

PRABHU DAYAL

v.

SADHAN SAHKARI SAMITI MUJURI  
VIKAS KHAND PANIYARA & ORS.  
(Civil Appeal No. 6227 of 2004)

FEBRUARY 27, 2008

[DR. ARIJIT PASAYAT, C.K. THAKKER AND  
LOKESHWAR SINGH PANTA, JJ.]

*Labour laws – Termination, of employees of co-operative Society – Labour Authorities issuing recovery order on basis of compromise award – Challenge to – Held: Uttar Pradesh Industrial Disputes Act, 1947 as also Payment of Wages Act, 1963 do not apply to the services of the employees of the registered co-operative society – Therefore, view of High Court justified – However, order of High Court setting aside the award made on the basis of settlement between the parties, set aside – Uttar Pradesh Industrial Disputes Act, 1947 – Payment of Wages Act, 1963.*

**Appellant was appointed with the respondent-society which had four employees. Appellant challenged his termination. Reference was made to the Labour Court. The parties entered into a settlement and the appellant was awarded certain amount subject to the condition that he would withdraw all applications and proceedings made before various authorities under the labour laws. Appellant was paid the amount but he did not withdraw the matters. Respondent-society filed writ petition on the ground that the Payment of Wages Act, 1963 and the Uttar Pradesh Industrial Disputes Act, 1947 did not apply to the respondent-society. The writ petition was allowed and the award dated 9.12.1988 made on the basis of a settlement arrived at between the parties was set aside. Hence the present appeal.**

A **Allowing the appeal, the Court**

**HELD: Uttar Pradesh Industrial Disputes Act, 1947 does not apply to employees of the co-operative society. The notification dated 30.6.1988 issued under sub-section (2) of Section 26 of the Minimum Wages Act, 1948 makes the position clear that provisions of the Payment of Wages Act, 1963 are not applicable to the service of workman employed under the societies which are registered with the Registrar of Co-operative Societies. The salaries and conveyance etc. paid by the registrar of the co-operative societies are also reviewed from time to time. Therefore, the High Court was justified in its view. But the award was made on the basis of a settlement between the parties. That being so, the High Court ought not to have set aside the award. The part of the impugned order relating to award dated 9.12.1988 is set aside. (Paras 4 and 6) [620-C, D, F, G]**

*Himanshu Kumar Vidyarthi and Ors. v. State of Bihar 1997 (4) SCC 391; R.C. Tiwari v. M.P. State Cooperative Marketing Federation Ltd. and Ors. AIR 1997 SC 2652 – relied on.*

**CIVILAPPELLATE JURISDICTION : Civil Appeal No.6227 of 2004.**

**From the Judgment and Order dated 25.7.2003 of the High Court of Judicature at Allahabad U.P., C.M.W.P. No. 30939/1990.**

**Rameshwar Prasad Goyal and Anoop Kumar Srivastava for the Appellant.**

**Praveen Swarup for the Respondents.**

**The Judgment of the Court was delivered by**

**Dr. ARIJIT PASAYAT, J. 1. Challenge in this appeal is to the judgment of the learned Single Judge of the Allahabad High Court allowing the writ petition filed by respondents - Sadhan**

Sahkari Samiti Mujuri Vikas Khand Paniyara (hereinafter referred to as the 'Cooperative society'). Challenge in this appeal was to the recovery order issued by the labour authorities on the basis of a compromise award. A.

2. Background facts in a nutshell are as follows: B

Appellant was appointed as Salesman in the respondent-society which had four employees, as such the labour laws were not applicable to it. But the appellant filed cases under the Payment of Wages Act, 1963 (in short the 'Act') which were allowed and the society was directed to pay a sum of Rs.4,830/- . In pursuance of the direction in terms of Section 15 of the Act, the amount was paid to the appellant in March, 1988. He again filed an application under Section 6-H of the Uttar Pradesh Industrial Disputes Act, 1947 (in short 'U.P. Act') making a grievance that he was being paid less than minimum wages payable under the Act. The said claim was also decided ex-parte. Thereafter he claimed that he had been terminated. He made grievances in that regard and on that basis a reference was made to the Labour Court, Gorakhpur which was registered as Adjudication Case no.334 of 1987. Before the Labour Court, parties entered into a settlement and an award was passed on 9.12.1988 whereunder the appellant was entitled to receive a sum of Rs.12,726/-. However, a condition was stipulated that the present appellant shall withdraw all applications and proceedings made before various authorities under the labour laws including under the Act and also under Section 6-H of the U.P. Act. The amount has been paid to the appellant. However, he did not withdraw the proceedings and wanted their continuance, and some adjudication has also been made ex-parte. C D E F

In the writ petitions, stand of the appellant-society was that Act did not apply to the society in view of the notification dated 30.6.1988. It was also urged that the U.P. Act does not apply to it as the service conditions of the appellant are governed by statutory regulations. The High Court found substance in the plea raised by the respondent-society and allowed the writ petition G H

A and set aside the orders dated 31.12.1988, 25.9.1989,  
31.3.1990, 6.9.1990 and the award dated 9.12.1988 which was  
made on the basis of a settlement arrived at between the parties.

B Appellant has challenged legality of the High Court's order  
on the ground that in any event an award made on compromise  
cannot be set aside.

3. Learned counsel for the respondents supported the  
impugned judgment.

C 4. In *Himanshu Kumar Vidyarthi and Ors. v. State of Bihar*  
and Ors. (1997 (4) SCC 391), it was held that industrial laws  
do not apply to the employees whose service conditions are  
governed by statutory rules. So, U.P. Act does not apply to  
employees of the cooperative society. The notification dated  
30.6.1988 issued under sub-section (2) of Section 26 of the  
D Minimum Wages Act, 1948 (in short 'the Wages Act') makes  
the position clear that provisions of the aforesaid Act are not  
applicable to the service of workman employed under the  
societies which are registered with the Registrar of Cooperative  
Societies. It was indicated that the salaries and conveyance  
E etc. paid by the registrar of the cooperative societies are also  
reviewed from time to time.

F 5. In *R.C. Tiwari v. M.P. State Cooperative Marketing*  
*Federation Ltd. And Ors.* (AIR 1997 SC 2652) this Court had  
held that in view of the arbitration clause in the Uttar Pradesh  
Societies Act (in short 'Societies Act') provisions of the Industrial  
Disputes Act are not applicable.

G 6. Therefore, the High Court was justified in its view. But  
so far as award dated 9.12.1988 is concerned, the same was  
made on the basis of a settlement between the parties. That  
being so, the High Court ought not to have set aside the award.  
In the ultimate result, the appeal is allowed by setting aside that  
part of the impugned order relating to award dated 9.12.1988.  
There shall be no order as to costs.

H N.J.

Appeal allowed.