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CO-OPERATIVE CENTRAL BANK LTD. & ORS.

v.

ADDITIONAL INDUSTRIAL TRIBUNAL, ANDHRA PRADESH & ORS.

April 3, 1969

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[J. M. SHELAT, V. BHARGAVA AND C. A. VAIDIALINGAM, JJ.]

C

Andhra Pradesh Co-operative Societies Act (7 of 1964), s. 61 and Industrial Disputes Act (14 of 1947), s. 10(1)(d)—Industrial dispute—Whether could be referred to Registrar of Co-operative Societies under s. 61 of Andhra Act—Jurisdiction of Industrial Tribunal if barred—‘Touching the business of Society’, meaning of—Scope of s. 16(5) of the Andhra Act.

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Disputes between some Cooperative Central Banks of Andhra Pradesh and their employees, relating to : (i) service conditions such as salary scales, dearness and other allowances, conveyance charges, working hours and promotion, age of retirement, provident fund and gratuity, leave rules, departmental enquiries, probation and confirmation; and (ii) the question whether transfers of some employees were justified, were referred to the Industrial Tribunal under s. 10(1)(d) of the Industrial Disputes Act, 1947. On the question whether the Industrial Tribunal had no jurisdiction to decide the disputes, because : (1) the disputes could be referred to the Registrar of Cooperative Societies under s. 61 of the Andhra Pradesh Cooperative Societies Act, 1964; (2) the Registrar, in dealing with the disputes referred to him under s. 61 of the Andhra Act, could grant relief by amending the bye-laws under s. 16(5); and (3) If the Industrial Tribunal gave relief to the employees it would be altering the bye-laws thus making orders contrary to law.

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HELD : (1) (a) The Andhra Act is an enactment passed by the State Legislature and received the assent of the President. Therefore, if any provision of the Industrial Disputes Act (a Central Act) is *repugnant* to any provision of the Andhra Act, the latter would prevail. But s. 61 of the Andhra Act requires reference of a dispute to the Registrar only if the dispute is capable of being resolved by him or his nominee, and if the dispute between the cooperative society and its employee *touches the business of the society*. The word ‘business’ means actual trading or commercial or other similar business activity of the society. Therefore, whatever a society does or is required to do for the purpose of carrying out its objects, such as laying down the conditions of service of its employees, cannot be said to be a part of its ‘business’, and hence, a dispute relating to conditions of service of the workmen employed by the society cannot be held to be a dispute *touching the business of the society*. [209 E-F; 215 B-D, G-H]

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(b) The Registrar could not have granted the reliefs claimed because of the limitations placed on his powers by the Andhra Act. Most of the Conditions of service which the workmen want to be altered to their benefit have been laid down by the bye-laws, so that, any alteration in those conditions of service will require a change in the bye-laws. But such a change could not possibly be directed by the Registrar, because, under s. 62(4) of the Andhra Act, the Registrar or other person or arbitrator to whom the dispute may be referred under s. 61 is specifically required to decide the dispute referred to him *in accordance* with the provisions of the bye-laws. [216 B-D, F]

The Deccan Merchants Cooperative Bank Ltd. v. M/s. Dulichand Jugraj Jain, [1969] 1 S.C.R. 887, followed. A

South Arcot Cooperative Motor Transport Society Ltd. v. Syed Batcha, [1960] 11 L.L.J. 693, approved.

(2) The provisions of s. 16(5) of the Andhra Act are irrelevant in considering the scope of the jurisdiction of the Registrar under s. 61 of the Act, because : (a) any action taken by the Registrar under s. 16(5) will not be a decision in a dispute referred to him under s. 61; (b) though the Registrar has the power to amend bye-laws under s. 16(5) any other person or arbitrator, to whom the disputes may be referred, has no such power; and (c) even the Registrar's powers under s. 16(5) to amend bye-laws is to be exercised only if he is of the opinion that it would be in the interests of the society and are not contemplated to be exercised in the interests of the workmen or for the purpose of resolving industrial disputes. [219 B-E] B

(3) The principle that rules framed under a statute have the force of statute does not apply to bye-laws of a cooperative society. They merely govern the internal management, business or administration of a society and may be binding between the persons affected by them but are neither law nor do they have the force of law. They are just like conditions of service laid down by contract between the parties, or like bye-laws under the Articles of Association of a company under the Companies Act, or Standing Orders certified under the Industrial Employment (Standing Orders) Act, 1946. Therefore, the circumstance that in granting relief, the Tribunal may have to vary the special bye-laws framed by the Cooperative Banks does not lead to the inference that the Tribunal would be making orders contrary to law and therefore is incompetent to grant the reliefs claimed. The jurisdiction granted to the Tribunal by the Industrial Disputes Act is not the jurisdiction of merely administering existing laws and enforcing existing contracts. The Tribunal has the jurisdiction even to vary contracts of service between employer and employees. Further, in the Andhra Act there is no prohibition that the conditions of service prescribed are not to be altered. Therefore, the reliefs could only be granted by the Industrial Tribunal and could not fall within the scope of the Registrar's powers under the Cooperative Societies Act. [217 H; 218 D-H] C

Dalmia Cement (Bharat) Ltd. v. Their Workmen, [1961] 11 L.L.J. 130 (S.C.), *The Management of Marina Hotel v. The Workmen*, [1962] 3 S.C.R. 1, *Cinema Theatres v. The Workmen*, [1964] 11 L.L.J. 128 and *The Hindustan Times Ltd. v. Their Workmen*, [1964] 1 S.C.R. 234, distinguished. D

Since the competence of the reference to the Tribunal as a whole was challenged on the ground that it was barred by s. 61 of the Andhra Act, the question whether a particular issue forming part of the reference was competently referred or not did not arise. [219 F, G-H] E

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 2093 and 2094 of 1968. F

Appeals from the judgment and order dated August 5, 1968 of the Andhra Pradesh High Court in Writ Petitions Nos. 2339 and 2742 of 1968. G

C. B. Agarwala, K. Srinivasa Murthy, B. P. Singh and Naunit Lal, for the appellants (in both the appeals). H

A. S. R. Chari, M. K. Ramamurthi, S. Pappu, Madan Mohan,

- A *J. Ramamurthi, Vineet Kumar, P. S. Khera and Bindra Thakur*, for respondent No. 2 (in both the appeals).

The Judgment of the Court was delivered by

- B **Bhargava, J.** An industrial dispute arose between 25 Co-operative Central Banks in the State of Andhra Pradesh and their workmen represented by the Andhra Pradesh Bank Employees Federation, Hyderabad, which was referred by the Government of Andhra Pradesh to the Industrial Tribunal, Hyderabad, under section 10(1)(d) of the Industrial Disputes Act No. 14 of 1947. The subject-matter of the dispute was divided into three issues. The first issue comprised a number of service conditions, viz., (1) Salary, Scales and Adjustments, (2) Dearness Allowance, (3) Special Allowances, (4) other Allowances, (5) Uniforms and Washing Allowances for subordinate staff, (6) Conveyance Charges, (7) Provident Fund and Gratuity, (8) Leave Rules, (9) Joining Time on Transfer, (10) Rules relating to departmental enquiry against employees for misconduct, (11) Probationary Period and Confirmation, (12) Working Hours and Overtime Allowance, (13) Age of Retirement, (14) Security, (15) Common Good Fund, (16) Service Conditions and (17) Promotions. The second and the third issues both related to the question whether the transfers of some employees of two of the Banks, The Vijayawada Co-operative Central Bank, Ltd., Vijayawada, and The Vizianagaram Co-operative Central Bank Ltd., Vizianagaram, were justified and, if not, to what reliefs were the employees entitled. Before the Industrial Tribunal, one of the grounds raised on behalf of the Banks was that the reference of the disputes to the Tribunal was invalid, because such disputes were required to be referred for decision to the Registrar of the Co-operative Societies under section 61 of the Andhra Pradesh Co-operative Societies Act No. 7 of 1964 (hereinafter referred to as 'the Act'), and the effect of the provisions of the Act was to exclude the jurisdiction of the Industrial Tribunals to deal with the same disputes under the Industrial Disputes Act. Various other pleas were also taken by the Banks in resisting the claims of the workmen, but, in these appeals, we are not concerned with them, because the Tribunal dealt with the point, mentioned by us above, as a preliminary issue and rejected the contention of the Banks. Twenty-four of the Banks thereupon challenged the preliminary decision of the Tribunal on this question, treating it as a preliminary award, by filing two Writ Petitions Nos. 2339 and 2742 of 1968 under Art. 226 of the Constitution in the High Court of Andhra Pradesh. The High Court also rejected the plea of the Banks. These two appeals have been brought up before us by certificate against the orders of the High Court dismissing the two writ petitions. In Civil Appeal No. 2093/1968, the appellants are 10 Banks who

were petitioners before the High Court in Writ Petition No. 2339 of 1968, while 2 of the petitioner-Banks in that writ petition have been impleaded as respondents. In Civil Appeal No. 2094 of 1968, the appellants are also 10 Banks who had joined in filing the other Writ Petition No. 2742/1968 in the High Court, while one of the petitioner-Banks in that writ petition has been impleaded as respondent, and another has not joined the appeal as a party. In these appeals, therefore, we are only concerned with one single question as to whether the jurisdiction of the Industrial Tribunal to adjudicate on the industrial dispute referred to it under s. 10(1) (d) of the Industrial Disputes Act was barred by the provisions of s. 61 of the Act.

The Tribunal, and the High Court, in rejecting the plea taken on behalf of the Banks, expressed the view that the disputes actually referred to the Tribunal were not capable of being decided by the Registrar of the Co-operative Societies under s. 61 of the Act and, consequently, the reference to the Industrial Tribunal under the Industrial Disputes Act was competent. Learned counsel appearing on behalf of the Banks took us through the provisions of the Act to indicate that, besides being a local and special Act, it is a self-contained Act enacted for the purpose of successful working of Co-operative Societies, including Co-operative Banks, and there are provisions in the Act which clearly exclude the applicability of other laws if they happen to be in conflict with the provisions of the Act. It is no doubt true that the Act is an enactment passed by State Legislature which received the assent of the President, so that, if any provision of a Central Act, including the Industrial Disputes Act, is repugnant to any provision of the Act, the provision of the Act will prevail and not the provision of the Central Industrial Disputes Act. The general proposition urged that the jurisdiction of the Industrial Tribunal under the Industrial Disputes Act will be barred if the disputes in question can be competently decided by the Registrar under s. 61 of the Act is, therefore, correct and has to be accepted. The question, however, that has to be examined is whether the industrial dispute referred to the Tribunal in the present cases was such as was required to be referred to the Registrar and to be decided by him under section 61 of the Act.

In order to properly appreciate the submissions which have been made on behalf of the Banks by their counsel, it is necessary to set out the provisions of sections 16, 61, 62 and 133 of the Act which are as follows :—

“16. Amendment of bye-laws of a society :—(1)
No amendment of any bye-law of a society shall be valid unless such amendment has been registered under this Act. Where such an amendment is not expressed to come into operation on a particular day, then, it

A shall come into force on the day on which it is registered.

B (2) Every proposal for such amendment shall be forwarded to the Registrar who shall, if he is satisfied that the proposed amendment fulfils the conditions specified in sub-section (1) of section 7, register the amendment within a period of sixty days from the date of receipt of such proposals :

Provided that the Government may, for sufficient cause which shall be recorded in writing, extend the said period for a further period of sixty days.

C (3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate signed and sealed by him, and such certificate shall be conclusive evidence that the amendment has been duly registered.

D (4) Where the Registrar is not so satisfied, he shall communicate by registered post the order of refusal together with the reasons therefor, to the society within the period specified in sub-section (2).

E (5) If in the opinion of the Registrar, an amendment of the bye-laws of a society is necessary or desirable in the interest of such society or of the co-operative movement, he may, in the manner prescribed, call upon the society, to make any amendment within such time as he may specify. If the society fails to make such an amendment within the time so specified the Registrar may, after giving the society an opportunity of making its representation, register such amendment and forward to the society by registered post a copy of the amendment together with a certificate signed by him; such a certificate shall be conclusive evidence that the amendment has been duly registered; and such an amendment shall have the same effect as an amendment of any bye-law made by the society.

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G 61. Disputes which may be referred to the Registrar :—

(1) Notwithstanding anything in any law for the time being in force, if any dispute touching the constitution, management or the business of a society, other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society, arises—

H (a) among members, past members and persons claiming through members, past members and deceased members; or

- (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society; or A
 - (c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heir or legal representative of any deceased officer, deceased agent, or deceased employee of the society; or B
 - (d) between the society and any other society; C
- such dispute shall be referred to the Registrar for decision.

Explanation :—For the purposes of this sub-section a dispute shall include—

- (i) a claim by a society for any debt or other amount due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether such debt or other amount be admitted or not; D
 - (ii) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or other amount due to it from the principal debtor as a result of the default of the principal debtor whether such debt or other amount due be admitted or not; E
 - (iii) a claim by a society against a member, past member or the nominee, heir or legal representative of a deceased member for the delivery of possession to the society of land or other immovable property resumed by it for breach of the conditions of assignment or allotment of such land or other immovable property. F
- (2) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a society, such question shall be decided by the Registrar. G
- (3) (a) Every dispute relating to, or in connection with, any election to a committee of a society referred to in clause (a) of sub-section (3) of section 31, shall be referred for decision to a H

A Subordinate Judge or where there is no Subordinate Judge, to the District Judge having jurisdiction over the place where the main office of the society is situated, whose decision thereon shall be final.

B (b) Every dispute relating to or in connection with any election to a committee of such class of societies as may, by notification in the Andhra Pradesh Gazette, be specified by the Government in this behalf and referred to in clause (b) of sub-section (3) of section 31, shall be referred for decision to a District Munsiff having jurisdiction over the place where the main office of the society is situated, and his decision thereon shall be final.

C (4) Every dispute relating to, or in connection with, any election to a committee shall be referred under sub-section (1) of sub-section (3) only after the date of declaration of the result of such election.

D 62. Action to be taken by the Registrar on such reference :—

(1) The Registrar may, on receipt of the reference of a dispute under section 61—

E (a) elect to decide the dispute himself; or
(b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf; or
(c) refer it for disposal to an arbitrator.

F (2) Where the reference relates to any dispute involving immovable property, the Registrar or such person or arbitrator, may order that any person be joined as a party who has acquired any interest in such property subsequent to the acquisition of interest therein by a party to the reference and any decision that may be passed on the reference by the Registrar, or the person or the arbitrator aforesaid, shall be binding on the party so joined as if he were an original party to the reference.

G (3) The Registrar may, by order for reasons to be recorded therein, withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and may elect to decide the dispute himself or transfer it to any other person under clause (b) of sub-section (1) or refer it to any other arbitrator under clause (c) of that sub-section.

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(4) The Registrar, such person or arbitrator shall decide the dispute in accordance with the provisions of this Act and the rules and bye-laws and such decision shall, subject to the provisions of section 76, be final. Pending final decision on the dispute, the Registrar, such person or arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interests of justice.

133. Act to override other laws :—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law."

Reliance was placed on the *non-obstante* clause "Notwithstanding anything in any law for the time being in force" occurring in s. 61 of the Act which has the effect that a dispute covered by this section must necessarily be referred to the Registrar for decision, so that it cannot be referred to any other authority under any other law. Further strength is sought in support of this proposition from the provisions of section 133 of the Act which clearly lays down that the provisions of the Act have overriding effect if there be any provision in any other law inconsistent with the provisions of the Act. Then, it was argued that the language of s. 61 of the Act is wide enough to cover the disputes referred to the Tribunal in these cases, because the disputes are between co-operative societies and their employees and they touch the business of the co-operative societies. In support of this submission, learned counsel referred us to a number of decisions of various High Courts in which the scope of the provisions contained in s. 61 of the Act or of similar provisions in other local enactments was considered. Most of these decisions were concerned with laying down the meaning of the expression "touching the business of the society" so as to include within its scope disputes of different nature between the co-operative societies and their employees. The cases which have been brought to our notice are :

(1) a decision of a learned single Judge of the Bombay High Court in *G.I.P. Railway Employees Co-operative Bank Ltd. v. Bhikhaji Merwanji Karanjia—Employee*⁽¹⁾, in which a similar provision contained in s. 54 of the Bombay Co-operative Societies Act No. 7 of 1925 was interpreted;

(2) a decision in *Sagar Motor Transport Karamchari Union, Sagar v. Amar Kamgar Passenger Transport Company Co-operative Society, Sagar and Another*⁽²⁾, where the Madhya Pradesh High Court interpreted section 55(2) of the Madhya Pradesh

(1) A.I.R. 1943 Bom. 341.

(2) (1969) 18 Indian Factories and Labour Reports, 27.

A Co-operative Societies Act, 1960 which required a dispute regarding terms of employment, working conditions and disciplinary action taken by a society, arising between a society and its employees, to be decided by the Registrar or any Officer appointed by him;

B (3) a decision of a Full Bench of the Madras High Court in *M. S. Madhva Rao and Others v. D. V. K. Surya Rao, Member of the Pithapuram Co-operative Bank, Pithapuram and Others*⁽¹⁾ in which section 51 of the Madras Co-operative Societies Act No. 6 of 1932, which was very similar to s. 61 of the Act, was interpreted; and

C (4) a decision of a Full Bench of the Bombay High Court in *Farkhundali Nannhay v. Potdar (V.B.)*⁽²⁾, in which also s. 54 of the Bombay Co-operative Societies Act No. 7 of 1925 came up for interpretation.

D Learned counsel for the appellants also brought to our notice a decision of a single Judge of the Calcutta High Court in *Co-operative Milk Societies Union, Ltd. v. State of West Bengal and others*⁽³⁾, where a dispute as to wages, wage-scales and dearness allowance was held not to be a dispute within the meaning of that word as defined in the Bengal Co-operative Societies Act, 1940, and sought to distinguish it on the ground that the decision in that case turned on the meaning specially given in that Act to the word "dispute"

E It appears to us that it is not necessary to examine in detail the reasons given by the High Courts in the above cited cases for the interpretation placed by them on provisions similar to s. 61 of the Act in view of a very recent decision of this Court in *The Deccan Merchants Co-operative Bank Ltd. v. Messrs Dalchand Jugraj & Others*⁽⁴⁾. In that case, this Court had to interpret section 91 of the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act 32 of 1961), the relevant provision of which is reproduced below :—

G "91. (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, elections of the office bearers, conduct of general meetings, management or business of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, to the Registrar, if both the parties thereto are one or other of the following :—

(1) A.I.R. 1954 Mad. 103.

(3) [1958] 2 L.L.J. 61.

(2) [1962] 1 L.L.J. 51.

(4) [1969] 1 S.C.R. 887.

- (a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society;

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One of the questions which the Court formulated as requiring an answer was : what is the meaning of the expression "touching the business of the society"? In order to decide this question, the Court analysed the provisions of s. 91(1) and held :—

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"Five kinds of disputes are mentioned in sub-s. (1); first, disputes touching the constitution of a society; secondly, disputes touching election of the office-bearers of a society; thirdly, disputes touching the conduct of general meetings of a society; fourthly, disputes touching the management of a society; and fifthly, disputes touching the business of a society. It is clear that the word 'business' in this context does not mean affairs of a society because election of office-bearers, conduct of general meetings and management of a society would be treated as affairs of a society. In this sub-section the word 'business' has been used in a narrower sense and it means the actual trading or commercial or other similar business activity of the society which the society is authorised to enter into under the Act and the Rules and its bye-laws."

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In that case, this Court was concerned with the question whether a dispute touching the assets of a society was a dispute touching the business of the society, and it was in that context that the interpretation mentioned above was given by this Court. In considering the full scope of s. 91(1) of the Maharashtra Act 32 of 1961, the Court further proceeded to hold :—

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"While we agree that the nature of business which a society does can be ascertained from the objects of the society, it is difficult to subscribe to the proposition that whatever the society does or is necessarily required to do for the purpose of carrying out its objects can be said to be part of its business. We, however, agree that the word 'touching' is very wide and would include any matter which relates to or concerns the business of a society, but we are doubtful whether the word 'affects' should also be used in defining the scope of the word 'touching'".

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- A This comment was made when taking notice of the decision of the Full Bench of the Bombay High Court in *Farkhundali v. Potdar*⁽¹⁾. The Court also held : —

“One other limitation on the word ‘dispute’ may also be placed and that is that the word ‘dispute’ covers only those disputes which are capable of being resolved by the Registrar or his nominee.”

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Considering the similarity between s. 61 of the Act and s. 91(1) of the Maharashtra Act 32 of 1961, we are of the opinion that the interpretation already placed by this Court on the provisions of s. 91(1) of the Maharashtra Act 32 of 1961 is fully applicable to the provisions of s. 61 of the Act with which we are concerned. Consequently, in deciding these appeals, we must proceed on the basis that s. 61 of the Act requires reference of a dispute to the Registrar only if the dispute is capable of being resolved by the Registrar or his nominee, and, further, the dispute between the co-operative society and the employee touches the business of the society in the sense explained by this Court in that case.

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Applying these tests, we have no doubt at all that the dispute covered by the first issue referred to the Industrial Tribunal in the present cases could not possibly be referred for decision to the Registrar under s. 61 of the Act. The dispute related to alteration of a number of conditions of service of the workmen which relief could only be granted by an Industrial Tribunal dealing with an industrial dispute. The Registrar, it is clear from the provisions of the Act, could not possibly have granted the reliefs claimed under this issue because of the limitations placed on his powers in the Act itself. It is true that s. 61 by itself does not contain any clear indication that the Registrar cannot entertain a dispute relating to alteration of conditions of service of the employees if a registered society; but the meaning given to the expression “touching the business of the society”, in our opinion, makes it very doubtful whether a dispute in respect of alteration of conditions of service can be held to be covered by this expression. Since the word “business” is equated with the actual trading or commercial or other similar business activity of the society, and since it has been held that it would be difficult to subscribe to the proposition that whatever the society does or is necessarily required to do for the purpose of carrying out its objects, such as laying down the conditions of service of its employees, can be said to be a part of its business, it would appear that a dispute relating to conditions of service of the workmen employed by the society cannot be held to be a dispute touching the business of the society. Further, the position is clarified by the provisions of sub-s. (4) of s. 62 of the Act which limit the power to be

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(1) [1962] I.L.L.J. 51.

exercised by the Registrar, when dealing with a dispute referred to him under s. 61, by a mandate that he shall decide the dispute in accordance with the provisions of the Act and the Rules and bye-laws. On the face of it, the provisions of the Act, the rules and the bye-laws could not possibly permit the Registrar to change conditions of service of the workmen employed by the society. For the purpose of bringing facts to our notice in the present appeals, the Rules framed by the Andhra Pradesh Government under the Act, and the bye-laws of one of the appellant Banks have been placed on the Paper-books of the appeals before us. It appears from them that the conditions of service of the employees of the Bank have all been laid down by framing special bye-laws. Most of the conditions of service, which the workmen want to be altered to their benefit, have thus been laid down by the bye-laws, so that any alteration in those conditions of service will necessarily require a change in the bye-laws. Such a change could not possibly be directed by the Registrar when, under s. 62(4) of the Act, he is specifically required to decide the dispute referred to him in accordance with the provisions of the bye-laws. It may also be noticed that a dispute referred to the Registrar under s. 61 of the Act can even be transferred for disposal to a person who may have been invested by the Government with powers in that behalf, or may be referred for disposal to an arbitrator by the Registrar. Such person or arbitrator, when deciding the dispute, will also be governed by the mandate in s. 62(4) of the Act, so that he will also be bound to reject the claim of the workmen which is nothing else than a request for alteration of conditions of service contained in the bye-laws. It is thus clear that, in respect of the dispute relating to alteration of various conditions of service, the Registrar or other person dealing with it under s. 62 of the Act is not competent to grant the relief claimed by the workmen at all. On the principle laid down by this Court in the case of *the Deccan Merchants Co-operative Bank Ltd.*⁽¹⁾, therefore, it must be held that this dispute is not a dispute covered by the provisions of s. 61 of the Act. Such a dispute is not contemplated to be dealt with under s. 62 of the Act and must, therefore, be held to be outside the scope of section 61.

In this connection, we may take notice of the view expressed by a learned single Judge of the Madras High Court in *South Arcot Co-operative Motor Transport Society, Ltd. (for ex-service-men) v. Syed Batcha and Others*⁽²⁾, where dealing with an industrial claim, the learned Judge held :—

“Therefore, in regard to an industrial claim, like the retrenchment compensation, the remedy for the

(1) [1969] 1 S.C.R. 887.

(2) [1960] II L.L.J. 693.

- A worker would be only to enforce it by the machinery created by the Industrial Disputes Act, namely, by ss. 10 and 33C(2). The Madras Co-operative Societies Act being itself a special statute, the authority, acting under it, would have no jurisdiction beyond what the enactment itself conferred on him. He could not, therefore, have jurisdiction to decide a dispute under the Industrial Disputes Act."
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That decision also related to s. 51 of the Madras Co-operative Societies Act, 1932, which was similar in terms to s. 61 of the Act.

- C Learned counsel appearing on behalf of the appellant Banks, however, urged a new point to challenge the jurisdiction of the Industrial Tribunal to deal with the dispute relating to conditions of service to the effect that the conditions of service having been made the subject-matter of bye-laws, an Industrial Tribunal will not be competent to alter them, because even an Industrial Tribunal has no jurisdiction to make orders contrary to law. For this purpose, he referred us to a number of decisions of this Court in *Dalmia Cement (Bharat), Ltd., New Delhi v. Their Workmen and Another*⁽¹⁾; *The Management of Marina Hotel v. The Workmen*⁽²⁾; *Cinema Theatres v. Their Workmen*⁽³⁾; and *The Hindustan Times Ltd., New Delhi v. Their Workmen & Vice Versa*⁽⁴⁾. In all these cases, it was held that an Industrial Tribunal acted illegally in prescribing leave in excess of the number of days laid down by the Delhi Shops and Establishments Act, 1954. In s. 22 of that Act there was a specific prohibition that leave for sickness or casual leave with full wages shall not exceed 12 days; and it was held that a direction made by the Tribunal granting to the workmen more than 12 days' sickness or casual leave was illegal. The principle of the decisions in those cases does not, however, appear to us to be applicable to the cases before us, because, in the present cases, there is no prohibition contained in the Act that the conditions of service prescribed are not to be altered. The argument on behalf of the Bank, however, was that the bye-laws, which contained the conditions of service, are themselves law, so that any direction made by an Industrial Tribunal altering a condition of service contained in a bye-law would be an order contrary to law and, hence, illegal.
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- H We are unable to accept the submission that the bye-laws of a co-operative society framed in pursuance of the provisions of

(1) [1961] II L.L.J. 130

(3) [1264] II L.L.J. 128.

L12Sup.CJ/69—15

(2) [1962] 3 S.C.R. I.

(4) [1964] I. S.C.R. 234.

the Act can be held to be law or to have the force of law. It has no doubt been held that, if a statute gives power to a Government or other authority to make rules, the rules so framed have the force of statute and are to be deemed to be incorporated as a part of the statute. That principle, however, does not apply to bye-laws of the nature that a co-operative society is empowered by the Act to make. The bye-laws that are contemplated by the Act can be merely those which govern the internal management, business or administration of a society. They may be binding between the persons affected by them, but they do not have the force of a statute. In respect of bye-laws laying down conditions of service of the employees of a society, the bye-laws would be binding between the society and the employees just in the same manner as conditions of service laid down by contract between the parties. In fact, after such bye-laws laying down the conditions of service are made and any person enters the employment of a society, those conditions of service will have to be treated as conditions accepted by the employee when entering the service and will thus bind him like conditions of service specifically forming part of the contract of service. The bye-laws that can be framed by a society under the Act are similar in nature to the Articles of Association of a Company incorporated under the Companies Act and such Articles of Association have never been held to have the force of law. In a number of cases, conditions of service for industries are laid down by Standing Orders certified under the Industrial Employment (Standing Orders) Act, 1946, and it has been held that, though such Standing Orders are binding between the employers and the employees of the industry governed by those Standing Orders, they do not have such force of law as to be binding on Industrial Tribunals adjudicating an industrial dispute. The jurisdiction which is granted to Industrial Tribunals by the Industrial Disputes Act is not the jurisdiction of merely administering the existing laws and enforcing existing contracts. Industrial Tribunals have the right even to vary contracts of service between the employer and the employees which jurisdiction can never be exercised by a civil court or a Registrar acting under the Co-operative Societies Act, so that the circumstance that, in granting relief on issue No. 1, the Tribunal will have to vary the special bye-laws framed by the Co-operative Bank does not lead to the inference that the Tribunal would be incompetent to grant the reliefs sought in this reference. In fact, the reliefs could only be granted by the Industrial Tribunal and could not fall within the scope of the powers of the Registrar dealing with a dispute under s. 61 of the Act.

We may also, in this connection, take notice of the submission made by learned counsel that the Registrar could have granted relief under s. 16(5) of the Act if he thought that it was advis-

- A able to grant that relief to the workmen. In our opinion, this submission must be rejected for two reasons. The first reason is that action taken by the Registrar under s. 16(5) of the Act will not be a decision on a dispute referred to him under s. 61 of the Act. When dealing with the dispute under s. 61 of the Act, the Registrar is bound to decide the dispute in accordance with the existing bye-laws, so that, if the dispute relates to alteration of conditions of service laid down in the bye-laws, he will be incompetent to grant the relief claimed. It is also to be noticed that a dispute referred to a Registrar under s. 61 of the Act may be transferred for disposal to a person who has been invested by the Government with powers in that behalf, or may be referred for disposal to an arbitrator. On the face of it, such person or arbitrator cannot possibly exercise the powers of the Registrar under s. 16(5) of the Act. The second reason is that, under s. 16(5) of the Act, the power given to the Registrar to propose amendments in the bye-laws and to enforce them if the proposal is not accepted by a society is to be exercised only when the Registrar is of the opinion that it is necessary or desirable to do so in the interests of such society or of the co-operative movement. Amendments in bye-laws under s. 16(5) of the Act are not contemplated in the interests of the workmen or for the purpose of resolving industrial disputes. The provisions of s. 16(5) of the Act thus appear to us to be irrelevant when considering the scope of the jurisdiction of the Registrar under s. 61 of the Act. Consequently, the decision of the High Court holding that the Tribunal had jurisdiction to deal with the industrial dispute referred to it must be upheld.
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- We may also take notice of an argument advanced at the last stage by learned counsel appearing on behalf of the Banks that, in any case, matters covered by issues Nos. 2 and 3 referred to the Tribunal could have been competently decided by the Registrar, and the reference in respect of those two issues at least should be held to be incompetent. We do not think that at this stage there is any need for us to decide this question, because such a point was not raised at all in the petitions filed under Art. 226 of the Constitution before the High Court. In those petitions, the competence of the reference to the Industrial Tribunal as a whole was challenged on the ground that it was barred because of the jurisdiction of the Registrar to deal with the dispute under section 61 of the Act. Consequently, we need not deal with the question whether a particular issue forming part of the reference has been competently referred or not.
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- H The appeals fail and are dismissed with costs. One hearing fee.

V.P.S.

Appeals dismissed.