



PUBLIC SECTOR AND FRUITLESS LITIGATION

THE SUPREME Court in *Central Co-operative Consumers Stores Limited v. Labour Court, H.P. at Shimla*,¹ has held a public sector corporation responsible for the wrongful dismissal of a female employee without sufficient cause, after having unnecessarily fought her from court to court. The Supreme Court also reprimanded the officials for causing losses to their organisation by fruitless litigation. The court permitted the organisation to recover the losses from the salary of the erring officials. The employee was working in the Super Bazar at Shimla as a sales girl. She was dismissed without the approval of the administrator. The assistant registrar, co-operative societies, set aside the dismissal and directed her re-instatement (after 7 years), but without back wages. The employee went in appeal. The employer also went in appeal. After several long rounds of litigation, the Supreme Court dismissed the appeal of the employer and criticised it for waste of public money. The employer was directed to pay the employee Rs. 3 lacs as back wages. The court left it open to the employer to recover the decretal amount (after payment to the employee) from the personal salary of responsible officers of the society.

This is not the first occasion on which courts have found it necessary to criticise the lethargy, callousness and indifference to government officers and other public agencies, in regard to the conduct of litigation. It is not that the government's legal advisers are not competent. The reasons lie more in some other factors. One of the most important of such factors is the apprehension, harboured by government officers, that the settlement of a claim without litigation is likely to be regarded as indicating either corruption or inefficiency or indifference. The other reason is that there is so much of litigation by or against public authorities, that they may not find it very easy to scrutinise minutely each and every notice of suit. Nevertheless, government agencies may be well advised in the public interest to gear up their internal machinery that acts as a sieve for testing and scrutinising prospective litigation. In the long run, every unnecessary litigation that is avoided by appropriate preventive action, confers a benefit not only by saving money, but also by advancing the public welfare. More than once, the Law Commission of India has drawn attention to the indifference of public agencies in this regard and, in particular, to the total futility of statutory provisions such as section 80, Civil Procedure Code, which make it compulsory to give notice of an intended suit.

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1. 1993 I.L.R. 517 (S.C.).

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