

(2017) 04 MP CK 0023
In the Madhya Pradesh High Court
Case No : 4474 of 2017

BAL KRISHNA PANDEY

APPELLANT

Vs

THE STATE OF MADHYA PRADESH & OTHERS

RESPONDENT

Date of Decision : 20-04-2017

Acts Referred:

[Central Civil Services \(Classification, Control and Appeal\) Rules, 1965](#), [Rule 14\(4\)](#), [Rule 10](#), [Rule 9\(1\)](#), [Rule 9](#), [Rule](#)

Citation : (2017) 04 MP CK 0023

Hon'ble Judges : Sujoy Paul

Bench : Single Bench

Advocate : Arunoday Singh, B.D. Singh

Final Decision : Dismissed

Judgement

1. This petition filed under Article 226 of the Constitution of India, challenges the suspension order dated 01.02.2017 (Annexure-P/1), and charge-sheet dated 03.03.2017 (Annexure-P/2).

2. Learned counsel for the petitioner advanced singular contention. He submits that the suspension order and charge- sheet are issued by the Collector, District Panna. The Collector is not an appointing or disciplinary authority of the petitioner. The State Government by order dated 22.08.2008, delegated the power of disciplinary authority in respect of Class III & IV employees to the Joint Director. He placed reliance on the order passed by this Court in W.P. No.19973/ 2012 [Smt. Kiran Singh vs. State of M.P. & others] decided on 20.03.2013, which is followed in W.P. No.10514/ 2014 [Murli Manohar Tiwari vs. State of M.P. & others] decided on 08.12.2014. On the strength of these orders, it is submitted that the Collector has no authority, jurisdiction and competence to place petitioner under suspension or issue the charge-sheet.

3. Mr. B.D. Singh, learned G.A. on the other hand relied on the order dated

23.05.1996, published in Gazette of M.P. on 10.01.1997. It is submitted that by this order Collector was empowered to place Class III & IV employees under suspension and inflict minor penalty on them. This power can be exercised on the employees of all the departments except police personnel. Learned G.A. Submits that by subsequent order dated 22.08.2008, earlier order was not superseded.

4. No other point has been pressed by the learned counsel for the parties.

5. I have heard the parties at length and perused the record.

6. No doubt, in case of Smt. Kiran Singh (Supra) and in case of Murli Manohar Tiwari (Supra), this Court held that power to suspend the employees is now exercisable by Joint Director and it cannot be exercised by Collector any more. This point requires serious consideration. The power to place an employee under suspension can be traced from Rule 9 of the CCA Rules. Rule 9(1) of CCA Rules reads as under:

"9.(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the Governor by general or special order, may place a Government Servant under suspension-"

As per this rule following authorities can place an employee under suspension:-
(a) Appointing authority; (b) Disciplinary Authority; (c) Any authority to whom the Appointing Authority is subordinate; (d) Any other authority empowered in that behalf by the Governor by passing a general or special order.

7. The disciplinary authority is defined under Rule 2(d) of CCA Rules, as under:
"(d) "disciplinary authority" means the authority competent under these rules to impose on a Government servant any of the penalties specified in rule 10;"

[Emphasis Supplied]

Indisputably, by notification dated 23.05.1996, the power to place Class III & IV employees under suspension and inflicting minor punishment on them was given to the Collector. The order dated 22.08.2008, is not passed in supersession of earlier notification dated 23.05.1996. It is merely recorded that at present power to place an employee under suspension is vested with the Collector/CEO Zila Panchayat and in another column it is mentioned as to why this power is given to the Joint Director. This order dated 22.08.2008, nowhere shows that existing power of the Collector has been taken away or withdrawn from them and then it is given to the Joint Director. As per plain reading of this order, the power is given to the Joint Director in addition to the power existing with the Collector. In my view, the enabling provision of Rule 9(1) of CCA Rules, was not brought to the notice of this Court during the adjudication of aforesaid two cases. Rule 9 (1) of CCA Rules, in no uncertain terms enables the Governor to empower "any other authority" by passing general or special order. As per the text and in the context the words "any other authority" are used in Rule 9(1) of CCA Rules, in my opinion, the Governor may authorize/empower one or more than one

authorities for the purpose of placing employees under suspension by passing general or special order.

8. The word "any" is used in different statutes. The Apex Court considered the meaning of the word "any" in 1987 (2) SCC 707 [Shir Balaganesan Metals vs. M.N. Shanmughan Chetty], it is held as under:

"18. In construing Section 10(3)(c) it is pertinent to note that the words used are "any tenant" and not "a tenant" who can be called upon to vacate the portion in his occupation. The word "any" has the following meaning: "some; one of many; an indefinite number. One indiscriminately or whatever kind or quantity. Word "any" has a diversity of meaning and may be employed to indicate "all" or "every" as well as "some" or "one" and its meaning in a given statute depends upon the context and the subject-matter of the statute. It is often synonymous with "either", "every" or "all". Its generality may be restricted by the context;" (Black's Law Dictionary, 5th Edn.) 19. Unless the legislature had intended that both classes of tenants can be asked to vacate by the Rent Controller for providing the landlord additional accommodation, be it for residential or non-residential purposes, it would not have used the word "any" instead of using the letter "a" to denote a tenant."

9. Similarly, in 1994 (1) SCC 243 [LDA vs. M.K. Gupta], the Apex Court held as under:

"The words "any" and "potential" are significant. Both are of wide amplitude. The word "any" dictionarily means "one or some or all". In Black's Law Dictionary it is explained thus, "word "any" has a diversity of meaning and may be employed to indicate "all" or "every" as well as "some" or "one" and its meaning in a given statute depends upon the context and the subject- matter of the statute."

10. A Division Bench of this Court has taken the same view in AIR 2007 MP 59 [Siddarth vs. Smt. Kanta Bai].

11. A simple reading of aforesaid judgments shows that the word "any" may have a wider meaning. It depends on the language of statute. I find support in my view from the aforesaid judgments, wherein it is held that the use of word "any" is to be understood in the context of the relevant statute. In the context of present statute, as noticed, in my judgment "any other authority" is wide enough to include one or more than one authorities. Thus, I am unable to hold that because of delegation of power of suspension to Joint Director, the power of Collector is taken away. The aforesaid orders of this Court on which reliance is placed are distinguishable because in those cases, enabling provision (Rule 9 of CCA Rules) was not taken into consideration. I also find force in the arguments of Mr. B.D. Singh, learned G.A. that while issuing new order, the earlier order by which Collector was empowered to exercise power, was not superseded or modified.

12. So far the charge-sheet is concerned, the definition of "disciplinary authority" shows that a authority who is empowered to impose any punishment enumerated in Rule 10 of CCA Rules is a "disciplinary authority". By notification dated 23.05.96, the Collector was empowered to inflict minor punishments. Thus, he becomes "disciplinary authority" within the meaning of Rule 2(d) of the CCA Rules. As per Rule 14(4) of the CCA Rules, the disciplinary authority shall deliver or cause to be delivered to the government servant a copy of article of charge. A conjoint reading of Rule 2(d) of CCA Rules and notification dated 23.05.1996, shows that Collector is a competent disciplinary authority. Hence, it cannot be said that suspension order and charge-sheet are issued by the authority who does not have competence/jurisdiction.

13. On the basis of aforesaid analysis, I am unable to hold that orders impugned are without authority, jurisdiction and competence. Hence, admission of this petition is declined. Petition is dismissed.