
(2004) 08 MP CK 0071

In the Madhya Pradesh High Court

Case No : Writ Petition (S) No. 2179 of 2003

C.R. Chandrol

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 05-08-2004

Acts Referred:

Madhya Pradesh Civil Services (Pension) Rules, 1976 — Rule 9(2)

Citation : (2004) 3 MPHT 513 : (2004) 3 MPLJ 608

Hon'ble Judges : Saraswati Prasad Khare, J

Bench : Single Bench

Advocate : N.S. Ruprah, for the Appellant; T.K. Modh, Dy. A.G., for the Respondent

Final Decision : Allowed

Judgement

S.P. Khare, J.

This is a writ petition under Articles 226 and 227 of the Constitution of India for quashing order dated 6-9-2003 (Annexure P-1) by which the petitioner has been directed to deposit an amount of Rs. 79,299/- so that arrears of his pension may be released.

It is not in dispute that the petitioner was working as Assistant Soil Conservation Officer at Mandla. He has retired on 31-5-1996 on attaining the age of superannuation. By the impugned order dated 6-9-2003 (Annexure P-1) he has been directed to deposit an amount of Rs. 79,299/- so that the arrears of pension be paid to him. In this letter it is not disclosed what is the basis for claiming this amount from the petitioner and how this figure has been worked out. It is not disputed that for recovery of this amount no departmental enquiry was initiated against the petitioner during his employment or after retirement. There is a departmental enquiry but that is in respect of some other charges which has nothing to do with the alleged recovery of Rs. 79,299/-.

The petitioner's case is that as per rules after expiry of nearly 7 years no

recovery can be made from his pension and no departmental enquiry can be held for fixing the liability or for quantifying the amount at this stage.

The respondents' case is that the petitioner was officiating as Assistant Soil Conservation Officer and at that time Shri K.C. Yadav, Store Keeper expired on 5-8-1992. The petitioner gave "no objection certificate" for release of the dues of Shri K.C. Yadav. It was found that there was shortage of stores of the amount of Rs. 79,299/-. This amount is sought to be recovered from the petitioner because he gave the no objection certificate for releasing the dues of Shri K.C. Yadav. However, for fixing this liability on the petitioner no departmental enquiry was held.

The learned Counsel for both the sides have been heard. Rule 9 (2) (b) of the M.P. Civil Services (Pension) Rules, 1976 provides as under:--

"(b) The departmental proceedings, if not instituted while the Government servant was in service whether before his retirement or during his re-employment:--

(i) shall not be instituted save with the sanction of the Governor;

(ii) shall not be in respect of any event which took place more than four years before such institution."

In the present case no departmental enquiry has been initiated against the petitioner within four years of the retirement of the petitioner. He retired in the year 1996 and the impugned letter (Annexure P-1) has been issued in the year 2003. In view of the rule mentioned above the respondents can not now initiate any departmental proceedings against the petitioner for recovery of any money from him. The question whether the petitioner is liable for the amount mentioned above due to his negligence could be determined in the departmental enquiry or in some judicial proceedings. The respondents can not unilaterally fix any pecuniary liability upon the employee and seek recovery of the same.

The petition is allowed. The impugned order dated 6-9-2003 (Annexure P-1) by which an amount of Rs. 79,299/- is sought to be recovered from the petitioner is quashed. The respondents are directed to pay the arrears of pension to the petitioner within one month with interest at the rate of 9% per annum from the date of arrears became due till the date of payment.