
(2013) 10 MP CK 0353
In the Madhya Pradesh High Court
Case No : Writ Petition 7620/13

N.K.Verma

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0353

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : S.C. Sharma, for the Appellant; Nidhi Patankar, G.A., for the Respondent

Final Decision : Disposed Off

Judgement

Sujoy Paul, J.

With the consent of parties, matter is finally heard.

1. The grievance of the petitioner is that he was served with show cause notice dated 23.11.2010 under rule 16 of M.P. Civil Services (Classification, Control & Appeal) Rules, 1966. The petitioner submitted his reply Annexure P-8. In the show cause notice itself it was proposed that as to why two annual increments of the petitioner should not be withheld. After receiving petitioner's reply, the disciplinary authority/Collector passed the order Annexure P-12 and directed recovery against the petitioner. The petitioner against this order preferred appeal before the appellate authority. The matter was taken up by the Additional Commissioner and the said authority opined that the order impugned is an administrative order. Since it is an administrative order, the Additional Commissioner opined that he has no authority to hear the said appeal. In addition the appeal is rejected on the ground of limitation. Shri S.C. Sharma, learned counsel for the petitioner, submits that the order of recovery is passed in a disciplinary proceeding and, therefore, it must be treated as an order of punishment. He further submits that the appellate authority has erred in treating

the impugned order of punishment as an administrative order, whereas it was a quasi judicial order passed in a disciplinary proceeding. In addition, he submits that if he had no competence to hear the matter on merits, it was not open for him to reject the appeal on the ground of limitation.

2. Mrs. Patankar, learned Govt. Advocate supported the order.

3. I have heard the learned counsel for the parties on the question whether the order of appellate authority dated 6.3.2013 is justifiable.

4. It is clear from the order dated 11.9.2012 (Annexure P-12) that the decision of Collector was taken on the basis of show cause notice issued to petitioner. The show cause notice was issued under rule 16 of the M.P.C.C.A. Rules. The recovery is a statutory punishment under the C.C.A. Rules. Thus, the order of Collector inflicting recovery for all purposes is a punishment order under the C.C.A. Rules. In the considered opinion of this Court, the appellate authority has erred in treating the order of Collector as an administrative order. Thus, I find force in the argument of Shri Sharma that the Additional Commissioner has erred in holding that the impugned order therein was an administrative order. I also find force in the contention that once the said authority opined that he had no authority to hear the matter, it was not open for him to held that the appeal was time barred. In that event, I deem it proper to set aside the impugned order dated 6.3.2013 and remand the matter back before the appellate authority to pass fresh orders in accordance with M.P. Civil Services (Classification, Control & Appeal) Rules 1966 without getting prejudiced with his earlier order dated 6.3.2013. The said authority shall pass orders in accordance with law expeditiously, preferably within 30 days. With the aforesaid, petition stands disposed of.