
(1985) 03 KAR CK 0008
In the Karnataka High Court
Case No : W.A. No. 423 of 1985

Shivalingaswamy

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 04-03-1985

Acts Referred:

Mysore Civil Services (Classification, Control and Appeal) Rules, 1957 — Rule 8 (v)

Citation : (1985) ILR (Kar) 1453

Hon'ble Judges : Malimath, C.J.;Hakeem, J

Bench : Division Bench

Advocate : H.S. Jois, for the Appellant; V.C. Brahmarayappa, Government Advocate, for the Respondent

Judgement

Malimath, C. J.,

1. After admitting this appeal, with the consent of the Learned Counsel this appeal was taken up for final hearing today.
2. The appellant was directly recruited as Village Accountant. When he was holding that post, a disciplinary enquiry was held against him in respect of certain charges. After the charges were held proved, the disciplinary authority namely the Deputy Commissioner has imposed the penalty of reducing him to the post of Dafter band and posted him as Attender. That order was affirmed on appeal by the *W.A.No. 423 of 1985 dated 4th March 1985 Divisional Commissioner, the Appellate Authority. The challenge to the same in Writ Petition No. 2478/84 also failed. Hence this appeal.
3. On merits we find no good grounds to interfere with the finding recorded by the disciplinary authority that the appellant is guilty of the charges held proved. Sri Sridhar, Learned Counsel appearing for the appellant, however maintained that the authorities could not have imposed the penalty of reducing the appellant to the post of Dafter band Attender. The appellant did not occupy the post of Village Accountant by the process of promotion from the cadre of Dafter band

Attender. He was directly recruited to the post of Village-Accountant. Hence the maximum punishment that could be imposed against the appellant was to dismiss him from service from the post of Village Accountant. He could not have been reduced to a lower post such as Dafterband-Attender. Rule 8(v) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957, as amended, in our opinion, does not justify such an action. It will lead to most unreasonable results if a person directly recruited to a post is reduced to a post which he never came to hold in service. That is not the scheme of the CCA Rules and therefore we have no hesitation in holding that the Deputy Commissioner had no competence to impose the penalty of reducing the appellant to the post of Dafter band Attender when in fact he entered service only as Village Accountant. If the disciplinary authority felt that the gravity of the charges proved warrants that the appellant should be removed from service it was open to the authorities to make an order either dismissing or removing him from service. But they could not have made an order reducing him to the lower post of Dafter band Attender.

4. Hence this appeal is allowed, the order of the Learned Single Judge is set aside and the orders of the "divisional Commissioner and the Deputy Commissioner imposing penalty are hereby quashed. The finding recorded by the Deputy Commissioner that the appellant is guilty of the charges proved stands affirmed. We remit the case back to the Deputy Commissioner only for the limited purpose of examining the question of imposing appropriate punishment commensurate to the charges held proved against the appellant. The Deputy Commissioner is directed to dispose of of the matter expeditiously after taking into consideration the explanation offered by the appellant.