

(1993) 03 MP CK 0011
In the Madhya Pradesh High Court
Case No : S.A. No. 45 of 1986

State of Madhya Pradesh and Others	Vs	APPELLANT
Shyamsunder Shivnarayan		RESPONDENT

Date of Decision : 22-03-1993

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 — Rule 10

Citation : (1993) ILR (MP) 222 : (1994) 39 MPLJ 289 : (1994) MPLJ 289

Hon'ble Judges : R.C. Lahoti, J

Bench : Single Bench

Advocate : Vandana Mishra, for the Appellant; R.M. Singh and V.K. Shukla, for the Respondent

Final Decision : Allowed

Judgement

R.C. Lahoti, J.

The defendant/State has come up in appeal feeling aggrieved by the judgment and decree of the lower appellate court partly decreeing the plaintiff/respondent's claim in reversal of the decree of the trial court which had dismissed the suit in its entirety.

Vide order dated 23-4-1986 this Court admitted the appeal for hearing parties on the following two substantial questions of law:

- (1) Whether the finding of fact on the question of fixation of negligence and mala fides could be traversed by the Civil Court?
- (2) Whether in absence of any point of law, the finding in the Departmental Enquiry proceedings against the plaintiff/delinquent Officer could have been set aside?

The facts relevant for disposal of this appeal may be briefly noticed. The plaintiff/

respondent was a Ranger in the employment of the Forest Department of the Government of Madhya Pradesh. He was found to have committed negligence in discharge of his duty as a Ranger resulting into a loss of Rs. 3,000/- to the State Government. That finding was arrived at in a duly constituted departmental enquiry. The amount was directed to be recovered from him in monthly instalment of Rs. 50/- from his salary. He claimed an injunction restraining recovery of Rs. 3,000/- as also a decree for Rs. 7,000/- as compensation for the loss of his social and personal prestige and mental pain and suffering, suffered by him. In so far as the claim for compensation is concerned it has been dismissed by both the Courts below. The decree for injunction restraining recovery of Rs. 3,000/- was refused by the trial court, but has been allowed by the lower appellate court.

The jurisdiction of the Civil Court in regard to the challenge thrown to the findings recorded in the departmental enquiry proceedings is a limited one and by now its scope stands well settled by several pronouncements of the Supreme Court and different High Courts. The Civil Court would not sit in judgment as a court of appeal on the findings arrived at and the penalty imposed in the domestic enquiry. The grounds on which the Civil Court may interfere are lack of jurisdiction, absence of good faith, breach of statutory provisions and disregard of the principles of natural justice.

In *R.C. Sharma Vs. Union of India (UOI) and Others*, Their Lordships of the Supreme Court have held :

"A suit challenging the validity of departmental proceedings cannot be treated as an appeal from the findings in the departmental proceedings or the punishment inflicted upon the Government servant even if these are erroneous. A question which could affect the result in a Civil suit has to be of such a nature that it goes to the root of the jurisdiction and the conduct of the departmental trial and vitiates the result. It is only if the departmental proceeding is null and void that a plaintiff in such a suit could obtain the reliefs he had asked for".

It is noteworthy that the plaintiff has not sought for setting, aside of the order passed in the departmental proceedings. He has also not sought for any declaration regarding nullity or avoidance of the order passed in the enquiry. The grounds on which the plaintiff attacked the order are to be found mentioned in six sub-paras of para 18 of the plaint. A reading of this paragraph of the plaint leaves no manner of doubt that the plaintiff was belabouring under an impression as if he was filing an appeal against the impugned order. There is no challenge to the jurisdictional competence of the disciplinary authority which had held the inquiry and passed final order therein. No mala fides are attributed. The inquiry was conducted under the M. P. Civil Services (Classification, Control and Appeal) Rules, 1966. There is no averment if any statutory provision was violated or the principles of natural justice were disregarded. The penalty imposed on the plaintiff/respondent was recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence minor penalty

within the meaning of clause (iv) of Rules 10 of M. P. Civil Services (Classification, Control and Appeal) Rules, 1966. Such a penalty was certainly capable of being imposed. The lower appellate court completely lost sight of the legal aspect that the suit as framed and of the nature filed by the plaintiff was not entertainable by the Civil Court. Merely because the Civil Court on appreciation of the evidence adduced before it was inclined to hold that the penalty ought not to have been imposed on the plaintiff/appellant, that would not mean that the penalty could not have been imposed by the disciplinary authority forming an opinion in favour of imposing the penalty on the basis of evidence adduced before it at the inquiry. The lower appellate court committed a grave error of law in reversing the decree of the trial court.

For the foregoing reasons the appeal is allowed. The judgment and decree of the lower appellate court are set aside and those of the trial court restored. However, there shall be no order as to the costs of this appeal, Counsel's fee as per schedule, if certified.