

(1977) 11 RAJ CK 0009

In the Rajasthan High Court

Case No : Civil Second appeal No. 348 of 1976

University of Rajasthan

APPELLANT

Vs

Mohan Melwani

RESPONDENT

Date of Decision : 24-11-1977

Acts Referred:

Constitution of India, 1950 — Article 226, 311

Citation : (1977) WLN 687

Hon'ble Judges : P.D. Kudal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

P.D. Kudal, J.—This second appeal is directed against the judgment and decree of the learned District Judge, Jaipur City dated 13-11-1976, whereby the judgment and decree of the learned Munsiff, Jaipur dated 9-3-1976 were reversed.

2. The facts of the case, in brief, are that the plaintiff Mohan Melwani filed a suit for declaration and permanent injunction against the University of Rajasthan Jaipur on 10-12-1975. It was contended by the plaintiff that he was appointed as Stenographer on 5-2-1958. and was ordered to be promoted as Stenographer Gr. I with effect from 17-7-1965 The plaintiff was promoted as officiating section Officer on 23-10 1973. The Departmental Promotion Committee constituted under Rule 20 of the Rajasthan University Employees non teaching) Recruitment Rules (hereinafter to be referred to as Recruitment Rules, selected the plaintiff for the post of Section Officer, and he was placed on probation for one year with effect from 4-3-1974. Later on, the plaintiff's probation period was extended for a further period of six months. The extended probation period expired on 3-9-1975. The plaintiff's contention is that in terms of Rule 33(4) of the Recruitment Rules, it should be deemed that he was confirmed after the lapse of two months of the probation period. Two months after the end of the probation period expired on 3-11-3975. On 9-12-1975 the plaintiff was reverted as Stenographer Gr. I. The plaintiff prayed that the order dated 9-12-1975 be

declared null and void and he be declared as a confirmed section officer, and the defendant be restrained by means of a permanent injunction from implementing the order of reversion.

3. The defendant, however, contended that the work of the plaintiff was not found satisfactory and that is why his probation period was initially extended for six months, and as there was no improvement he was ordered to be reverted to his substantive post of Stenographer Gr. I. It was also contended that the Vice Chancellor had ordered that the Recruitment Rules would be kept in abeyance with effect from 23-7-1975, and that as these rules had no applicability the plaintiff did not and could not derive any advantage of Rule 33(4), of the Recruitment Rules. The decision of the Vice-Chancellor dated 23-7-1975 was, it was contended, approved by the Syndicate on 21-11-1975. It was also contended that the order of reversion was not justiciable and could not be challenged in a court of law. It was also contended that any person aggrieved or dissatisfied with an order passed by the administration could prefer an appeal, and in that view of the matter, the plaintiff should have sought his remedy by preferring an appeal before the authority mentioned under the said rules and the suit so brought by him was per se not maintainable

4. The learned Munsiff framed the following issues on 5-1-76:

1. Whether order No. 25639-43 Est dated the 9th December, 1975 is illegal, invalid, inoperative and if so what is its effect on the suit?

(2) Whether Rule 33(iv) of the Rajasthan University Employees (non teaching) Recruitment Rules ceased to apply to the employees of the University in view of the decision taken by the Vice-Chancellor and further approved by the Syndicate vide Resolution No. 15 dated 21-11-1975 and if so to what effect on the suit?

(3) Whether the suit is not maintainable as mentioned in para No. 1 and 4 of the additional pleas of the written statement?

(4) Relief?

5. The plaintiff examined himself and closed his evidence. On behalf of the defendant. DW 1 Vasudeo Kumar, DW 2 M.K. Mukherji DW. 3 Makla Zutsi, DW. 4 Premchand, DW. 5 Rameshchandra Shrivastava & DW. 6 Natwar Sharma were examined. The learned trial court dismissed the plaintiffs suit on 9-3-1976. The plaintiff feeling aggrieved filed an appeal before the learned District judge, Jaipur City. The plaintiff's appeal was allowed on 13-11-1976, and the plaintiff's suit was decreed with costs throughout.

6. The University of Rajasthan feeling aggrieved against the judgment and decree of the learned District Judge has filed the present appeal, on 1-12-1976.

7. On behalf of the defendant-appellant it was contended that the learned District Judge erred in law in holding that the Vice Chancellor could not keep in abeyance the Recruitment Rules it was further contended that in the facts and

circumstances of the case, the order of reversion of the plaintiff-respondent was not justiciable in a court of law, and that the learned District Judge, therefore, erred in law in decreeing the plaintiff's suit. It was also contended that the plaintiff-respondent's work was not satisfactory and that in the interests of the University it was considered necessary that the plaintiff-respondent be reverted to his substantive post of Stenographer Gr. I. It was also contended that the powers conferred on the Vice-Chancellor u/s 13(4)(a) of the Rajputana University Act, 1946 are coterminous with that of the powers of the Syndicate and other authorities of the University. It was also contended that the Vice-chancellor alone is competent to decide whether any emergency at a particular moment existed or not, and especially when the Syndicate had ceased to function. It was also contended that the action of the Vice-Chancellor was ratified by the Syndicate in its meeting held on 21-11-1975. It was also contended that the learned District Judge erred in law in holding that the Vice-chancellor did not pass the impugned order of the reversion of the plaintiff-respondent in exercise of his emergency powers. It was also contended that the rules had not been framed under the legislative function of the Syndicate. It was therefore, contended that the appeal be accepted and the judgment and decree of the learned District Judge be set aside and that of the learned trial court be restored.

8. On behalf of the plaintiff-respondent, it was contended that the order of the Vice-Chancellor dated 23-7-1975 does not indicate that he had passed those orders at the time when any emergency existed, and under such circumstances the powers u/s 13(4)(a) of the University of Rajputana Act, 1946 could not be availed of.

9. It was also contended that the Rules could not be kept in abeyance by the Vice-Chancellor as these rules have been framed by the Syndicate under its legislative functions. It was also contended that the enquiring officer namely, the Deputy Registrar had exonerated the plaintiff-respondent from the charges and that the Registrar differed with the findings of the Deputy Registrar, and while making a recommendation to the Vice-Chancellor for reversion of the plaintiff-respondent no opportunity was afforded to the plaintiff-respondent to meet the charges. As a matter of fact, the plaintiff-respondent was not heard at all. It was contended that the order dated 9-12-1975 Ex. 7 was passed by the Registrar. The Registrar of the University it was contended, had no jurisdiction to pass such an order. The order could be passed only by the Syndicate or the Vice-chancellor. It was also contended that the order of reversion amounted to the reduction in rank and could not be passed without affording a reasonable opportunity to the plaintiff-respondent as provided in 0.384 which is equivalent to Article 311 of the Constitution of India. It was also contended that no emergency existed and the Vice-Chancellor could not invoke the powers u/s 13(4)(a) University of Rajputana Act, 1946. It was also contended that an application under Order 41, Rule 1, CPC had been filed on 17-2-1977 seeking permission to raise the legal point that the Registrar had absolutely no authority to pass an order of reversion. It was further contended that this being a pure question of

law could be raised at any stage, and especially when the defendant appellant had not filed any reply despite lapse of more than 8 months.

10. On behalf of the defendant-appellant, it was contended that the question of lack of authority in the Registrar in passing the order Ex. 7 dated 9-12-1975 could not be taken up for the first time in the second appeal.

11. The contention of the learned Counsel for the parties have been considered and the record of the case carefully perused. The plaintiff respondent was appointed as Stenographer on 5-2-1958. He was promoted as Stenographer Gr. I on 17-6-1965. The Departmental Promotion Committee constituted under Rule 20 of the Recruitment Rules selected the plaintiff-respondent for the post of Section Officer and placed him on probation for a period of one year which ended on 4-3-1975. The period of probation was extended for another six months up to 3-9-1975. There after, the Registrar by his order dated 9-12-1975, Ex. 7, reverted the plaintiff-respondent to his substantive post of Stenographer Gr. I. The plaintiff-respondent has vehemently contested that the order dated 9-12-1975 is illegal, invalid and inoperative from its very inception. Vide Ex. 5, Registrar recommended to the Vice Chancellor that the existing Recruitment Rules have become inoperative with immediate effect, and till new rules are framed and approved by the Syndicate the selection of personnel to the non-teaching posts it the various cadres above the UDCs level may be provisionally made through open competition on the basis of qualifications experience and efficiency. The Vice-Chancellor on 20-7-1975 agreed with the latter part of this recommendation with the result that the Recruitment Rules were thought to have become inoperative. On 9-12-1975, vide Ex. 7, the plaintiff-respondent was reverted to the post of Stenographer Gr. I. It is further said that the order of the Vice-Chancellor dated 23-7-1975 was confirmed by the Syndicate in its meeting held on 21-11-1975. In view of these facts, the most important question to be decided is, whether the Vice-Chancellor is empowered to put the Recruitment Rules in to abeyance. In Section 2(c) of the University of Rajputana Act, 1946, statutes, ordinances, regulations and rules mean respectively statutes, ordinances, regulations and rules made under this Act. Section 31 A provides that any authority of the University specified in Clauses (iv), (v), (vi) and (vii) of Section 17, and any other Board of the University may, subject to the approval of the Syndicate, make Rules, consistent with this Act and the Statutes. Ordinances, and Regulations, providing for all matters solely concerning the conduct of its own business. u/s 21 of the Act Syndicate is the executive body of the University u/s 22 the Syndicate exercises the powers and performs the functions mentioned therein. Section 22(g) as originally existed reads as under:

22(g) subject to the provisions of this Act and the Statutes, to appoint officers (other than the Chancellor, Vice-Chancellor and Deans of Faculties), teachers, clerical staff and servants of the University, and to define their duties emoluments and conditions of service and to provide for the filling up of temporary vacancies in their posts.

Section 22(m) reads as under:

to exercise all other powers of the University, not otherwise provided for by this Act or the statutes.

12. By an ordinance dated July 10, 1975, this Act was amended, Section 22(g) after amendment reads as under:

Subject to the provisions of this Act and the Statutes, to appoint officers (other than the Chancellor, Vice-Chancellor and Deans of Faculties), teachers and to define their duties, emoluments and conditions of service.

13. Clause (m) of Section 22 was omitted. It was further provided that notwithstanding anything contained in the principal Act on such dissolution, all things done, actions taken, appointments and orders made by the Syndicate dissolved by the Ordinance shall to all intents and for all purposes, continued to be in force until they are rescinded or modified by the Syndicate re-constituted.

14. The powers and duties of the Vice Chancellor have been detailed in Section 13. Section 13(4)(a) and (b) read as under:

13(4)(a). He may take action in any emergency which in his opinion, calls for immediate action. He shall in such a case, and as soon as may be thereafter, report his action to the officer, authority or other body who or which would ordinarily have dealt with the matter.

(b) When action taken by the Vice Chancellor under Clause (a) affects any person in the service of the University, such person shall be entitled to prefer an appeal to the Syndicate within fifteen days from the date on which such action is communicated to him

Section 29 of the Act provides that subject to such conditions as may be prescribed by or under the provisions of this Act, the Syndicate may make Ordinance, consistent with this Act and the Statutes, to provide for all or any of the following matters, namely:

(6) emoluments and conditions of service of University teachers;

(9) all matters which by this Act or the Statutes are to be or may be provided for by Ordinances; and

(10) generally all matters for which provision is, in the opinion of the Syndicate, necessary for the exercise of the powers conferred or the performance of the duties imposed upon the Syndicate by this Act or the Statutes.

15. Section 30 provides that all Ordinances shall be made by the Syndicate as detailed therein. Section 17 of the Act provides as under:

The following shall be the authorities of the University, namely:

(i) The Senate,

- (ii) The Syndicate,
- (iii) The Academic Council,
- (iv) The Faculties,
- (v) The Boards of Studies,
- (vi) The Board of Inspection, and
- (vii) Such other bodies of the University as may be declared by the Statutes to be authorities of the University.

16. A perusal of the minutes of meeting of the Syndicate held on 4th-6th June 1973, would reveal that a committee was constituted for reviewing the existing Ordinances governing the service conditions of the teaching and non-teaching employees of the University. In that meeting, it was resolved that the recommendations of the said committee in respect of the proposed "Rajasthan University Employees (non-teaching Recruitment Rules, 1972" be accepted provisionally and the office should go ahead with the recruitment of the (non-teaching posts on the basis of the aforesaid rules with the modifications indicated there in. The modifications are nor relevant for the disposal of the present case, and as such they are not enumerated here. The minutes of the meeting of the Syndicate held on 9-10-77 were also produced for the perusal of the court. The minutes provide for restoring to the Rajasthan University Employees (non-teaching) Recruitment Rules. 1974 approved by the Syndicate vide its resolution No. 2(ii) dated 4/6 June, 1973 read with its resolution No. 3 dated 11th/12th January, 1974 till the new Recruitment Rules are framed and approved by the Syndicate.

17. A perusal of Section 31-A read with Section 17 would show that these rules were framed under these sections, and were approved by the Syndicate. The question for determination is, whether the Vice-Chancel cr had the jurisdiction and authority to put these rules into abeyance as he did vide his order dated 23/7/1975. Section 13(4)(a), provides that in emergency the Vice-Chancellor may take immediate action. Whether such emergency existed is a question of objective satisfaction of the Vice-Chancellor. The emergency has been defined in Venkataramaiya's Law Lexicon at page 382 as, "A sudden unexpected happening; an unforeseen occurrence or condition; specifically perplexing contingency or complication or circumstances; a sudden or unexpected occasion for action" The note of the Registrar dated 19-7-1975 Ex. 5 states that these rules as adopted are still in force and the University had a sad experience in the operation of these rules. Besides both the Central and the State Government have announced a broad policy decision about recruitment to posts by promotion. Seniority is no longer a prominent factor beyond the cadre of UDCs. In view of these circumstances, the Registrar recommended that these rules may be kept in abeyance. The Vice chancellor, on 23-7-1975, approved this suggestion. The note of the Registrar dated 19-7 1975, or the order of the Vice-

Chancellor dated 23-7-1975 does not state that an emergency has arisen which calls for an immediate action on the part of the Vice-Chancellor. In *Virendra Kapur Vs. University of Jodhpur and Others*, it was held that emergency means any extraordinary situation like strike, riot or similar such other thing. Neither the order dated 23-7-1975 of the Vice-Chancellor, nor the note of the Registrar dated 19-7-75 indicates that an emergency had arisen which justifies the invocation of the powers u/s 13(4)(a) of the Act, nor any of the documents produced on behalf of the University indicate that any such emergency had arisen. This is true that a court of law cannot sit in appeal or in judgment over the discretion of the Vice-Chancellor as to the existence of the emergency. But at the same time, the courts are fully competent to examine whether the Vice-Chancellor felt that a state of emergency had arisen. The objective satisfaction is that of the Vice-Chancellor, but there must be something on the record to indicate that an emergency has arisen according to the objective satisfaction of the Vice-Chancellor and that he is, therefore, taking action u/s 13(4)(a) of the Act

18. Having given my most anxious consideration to the material on the record, I am constrained to observe that there is, nothing on the record to suggest that emergency had arisen and that because of such a contingency the Vice-Chancellor took recourse to Section 13(4)(a) of the Act. As a matter of fact, a perusal of the note of the Registrar dated 19-7-1975 and the order of the Vice-Chancellor dated 23-7-1974 in Ex. 5 goes to show that recourse to Section 13(4)(a) of the Act was not at all taken. In Section 13 of the Act, there is absolutely no provision which empowered the Vice-Chancellor to suspend the operation of any Ordinance or Rule except as provided in Sub-section (4)(a). As there was no emergency, the Vice-Chancellor had no jurisdiction to keep these rules in abeyance. As a matter of fact, even the Ordinance which was issued on 10th July, 1975 saved all such rules which were in force before the coming into force of the Ordinance. These Rules were framed u/s 31. A read with Section 17 and were approved by the Syndicate. It, therefore, follows that these rules were framed under the legislative functions of the Syndicate. There is no provision in the Act except in case of emergency where by the Vice-Chancellor may be authorised to put such rules in abeyance Reference may be made to *Mrs. Prity Prabha v. Dr. C.P. Singh* ILR 1968 (Raj.) 712 and *University of jodhpur v. Ramchandra Sharma* RLW 1976 674.

19. It was contended on behalf of the defendant-appellant that in case of contractual relation of master and servant, the employee is not entitled to take recourse to these Rules. Reliance was placed on *Indian Airlines Corporation Vs. Sukhdeo Rai*, wherein it was held that the Act does not cast any obligation upon Indian Airlines Corporation to appoint employees under particular type of contract or to terminate them on specific ground Hence, though Corporation's employee is dismissed in contravention of Regulations made under the Act, the dismissal cannot be declared as null and void.

20. Reliance was placed on *Kumari Regina Vs. St. Aloysius Higher Elementary*

School and Another, wherein it was held that these rules which have been framed under the Madras Elementary Education Act, are not statutory rules so as to control relation between management of school and its teachers.

21. In Executive Committee, U.P. Warehousing Corporation Vs. Chandra Kiran Tyagi, it was held that dismissal though in violation of Regulation framed under Agricultural Produce (Development and Ware housing) Corporation Act, 1956 is not in breach of mandatory provisions under the Act, employee cannot claim reinstatement.

22. In State of Assam and Another Vs. Ajit Kumar Sharma and Others, it was held that rules in nature of administrative instructions are without any statutory force and therefore, employees cannot seek enforcement or non-enforcement of Rules by maintaining writ petition against the Director of Public Instructions as the Rules confer no rights on them

23. Reliance was placed on Union of India v. R.S. Dhaba & Indra Dev v. Meerut University AIR 1976 All 273 in which it was held that powers u/s 10(5) is exercised when the matter is of urgent nature.

24. Reliance was placed on The Vice-chancellor, Jammu University and Another Vs. Dushiant Kumar Rampal, wherein it was held that where there is power conferred on the employer either by an express term in the contract or by the rules governing the terms & conditions of service to suspend an employee, the order of suspension has the effect of temporarily suspending the relation of master and servant with the consequence that the employee is not bound to render service and the employer is not bound to pay. In such a case the employee would not be entitled to receive any payment at all from the employer unless the contract of employment or the rules governing the terms and conditions of service provide for payment of some subsistence allowance.

25. Reliance was placed on Ramshai v. Board of Revenue for Rajasthan 1977(1) SLR 605. Reliance was placed on R. Bhadada v. Jodhpur University 1977 Lab. IC 509, in which it has been held as under:

The High Court cannot strike down suspension only on the ground that a possible alternative course which is suggested by the petitioner may have been a better course Evidently how a particular emergent situation has to be left to the person concerned High Court is not sitting as a court of appeal over the opinion which has to be formed subjectively by the Vice-Chancellor in deciding whether he should act u/s 12(5) of the Act. The test is not an objective one, in the sense whether had the High Court been in the position of a Vice-Chancellor, it would have taken the same action as the Vice-Chancellor took. The test in short is whether there were some circumstances on the basis of which the Vice-Chancellor could have acted as a reasonable man in the manner he did. In view of these circumstances, it was held that it could not be said that the action of the Vice Chancellor was so arbitrary as to call for interference.

Reliance was also placed on *Guru Nanak University Vs. Dr. (Mrs.) Iqbal Kaur Sandhu and Others*, in which it was held that:

From the plain words of sub Clause (3) of statute 31 it is evident that the very sine qua non for dispensing with the services of the probationer is the objective satisfaction of the appointing authority that during the probation any period, his work and conduct have not been satisfactory. If statute 31 is to be complied with in terms (which indeed is the core of the petitioner-respondent's case herself) the very condition precedent for refusing to confirm a probationer has necessarily to be a finding by the appointing authority that the work and the conduct of the employee have not been satisfactory. It cannot be said that in complying with and in conforming to the provisions of a statute the appointing authority acts in a manner which may be called illegal or in doing so it attaches a stigma to the probationer. The performance of a legal duty laid down in terms by a statute is a matter which should neither be challengeable nor should it result in any adverse consequences to the party conforming to its statutory function.

On behalf of the respondent, it was contended that the case law cited by the defendant-appellant has been over-ruled in *Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, ,* in which it was held that rules and regulations framed by the Oil and Natural Gas Commission, Life Insurance Corporation and the Industrial Finance Corporation have the force of law. The employees of these statutory bodies have a statutory status and they are entitled to declaration of being in employment when their dismissal or removal is in contravention of statutory provisions. In this case. *Executive Committee, U.P. Warehousing Corporation Vs. Chandra Kiran Tyagi, and Indian Airlines Corporation Vs. Sukhdeo Rai*, were not followed, as would be evident from para 31 of this judgment. Principles of natural justice have been embodied in the decision of the constitution Bench in *Mafatlal Barot us. Mafatlal Naraindas Barot Vs. Divisional Controller, State Transport Corporation and Another*,

26. Reliance was placed on *Mrs. Priti Prabha v. Dr. G.P. Singh* ILR 1968 (Raj.) 712, wherein it was held that:

A court of law should not too readily interfere with the internal working of a University which is an autonomous body without adequate care and caution. But at the same time where the University may be found to be acting clearly in breach of its own rules and regulations, or in excess of its lawful authority or contrary to a provision of the Constitution; then the High Court cannot abdicate its duty of stepping in and calling it to perform its lawful duty under the obligation which has been imposed upon the court by the Constitution of the country as enshrined in Article 226 thereof.

Reliance was placed on *Hukam Chand Shyam Lal Vs. Union of India (UOI) and Others*, in which it was held that:

it is well settled that where a power is required to be exercised by a certain authority in a certain way, it should be exercised in that manner or not at all, and all other modes of performance are necessarily forbidden. It is all the more necessary to observe this rule where power is of a drastic nature & its exercise in a mode other than the one provided will be violative of the fundamental principles of natural justice.

27. In *Virerdra Kapur v. University of Jodhpur* (1), in which it was held as under:

It is doubtful whether Section 12(5) of the Act can be properly resorted to for legislative purposes in as much as from the setting and the context in which this section finds its place in the Act, it appears to provide for the taking of executive or administrative action by the Vice-Chancellor to meet an emergency such as strike or a riot or similar other unexpected situation which action he is required to report under the next following sub-section to the competent authority at the earliest opportunity.

28. In *Mafatlal Naraindas Barot Vs. Divisional Controller, State Transport Corporation and Another*, it was held that order of termination of services without giving an opportunity to show cause is in contravention of the principles of natural justice.

29. In *State of Punjab Vs. Dharam Singh*, it was held that in the circumstances the respondent must be deemed to have been confirmed in that post after 1-10-1960 and after such confirmation, the appointing authority had no power to dispense with his services under Rule 6(3) on the ground that his work or conduct during the period of probation was unsatisfactory.

30. In *Appar Apar Singh v. State of Punjab* 1971 SLR 71, it was held that:

It is well settled that officiating and temporary Government servants are also entitled to the protection of Article 311(2) in the same manner as permanent Government servants, if the Government takes action against them by meeting out one of the punishments i.e. dismissal, removal or reduction in rank

It was further held that:

The close connection between the findings recorded in the report against the appellant and the order of reversion has been found established in this case. Therefore, the only question whether the findings so accepted by the Government operated only as a motive for passing the order of reversion or whether the report against the appellant was the very foundation for passing the impugned order.

In *State of Bihar v. Shiv Bhikshuk* 1970 SLR 863, it was held as under:

No rigid principle has ever been laid down by the Supreme Court that one has only to look to the order and if it does not contain any imputation of misconduct or the words attaching stigma to the character or reputation of a Government officer it must be held to have been made in the ordinary course of

administrative routine and the court is debarred from looking at the attendant circumstances to discover whether the order had been made by way of punishment. The form of order is not conclusive of its true nature and it might merely be a cloak or camouflage for an order founded on misconduct. It may be that an order which is innocuous on its face and does not contain any imputation of misconduct is a circumstance or a piece of evidence for finding whether it was made by way of punishment or administrative routine. But the entirety of circumstances preceding or attendant on the impugned order must be examined and the overriding test will always be whether the misconduct is mere motive or is the very foundation of the order.

31. In view of the case laws cited above, it is abundantly clear that the Vice-Chancellor had no legal authority or jurisdiction to keep the Recruitment Rules in abeyance. There were certain allegations against the plaintiff-respondent as the Deputy Registrar inquiring into the allegations found that the charge against the plaintiff-respondent have not been established. The Registrar however, differed with the view of the Deputy Registrar without affording an opportunity to the plaintiff respondent to meet the charges, and held him guilty and recommended to the Vice-Chancellor to pass a suitable order. It was on this recommendation of the Registrar that the Vice-Chancellor ordered the reversion of the plaintiff respondent. Under these circumstances the provisions of Order 384 were attracted, and the defendant clearly violated the procedure laid down for passing an order of reversion in the circumstances of the case.

32. As the Recruitment Rules had not been put into abeyance the plaintiff respondent became automatically confirmed as Section Officer as provided in Rule 33(4), that is after the lapse of two months after the period of probation had come to an end. If the plaintiff-respondent's work was not satisfactory, or there were any other charges against him, the defendant-appellant was free to have taken recourse to disciplinary proceedings against him as provided under the Rules and the Ordinances, but the defendant-appellant did not resort to the procedure prescribed under the rules and the ordinances.

33. The order of reversion Ex. 7 has been passed by the Registrar. Order 357F provides that the Syndicate when ordering the transfer of a University employee as a penalty from a higher to a lower grade or post may allow him to draw any pay not exceeding the maximum of the lower grade or post which it may think proper. According to Schedule III Srl. No. 2(B) Sub-Clause (1)(a) of the Recruitment Rules, the Vice-Chancellor is the appointing authority. Therefore, he alone could have ordered his reversion. If recourse is taken to Order 357F, then the Syndicate alone could have ordered this reversion. In the instant case, the order has been passed by the Registrar, The Registrar is no authority under the law to pass such order. This being a pure question of law is permitted to be raised in the second appeal. Reference may be made to AIR 1932 118 (Privy Council) and Chitturi Subbanna Vs. Kudapa Subbanna and Others, . Reference may be made to Ex. 1. It was on 5-12-1975, that the Registrar recommended the

reversion of the plaintiff-respondent to the post of stenographer Gr. I On 6-12-1975, the Vice-Chancellor ordered that Shri Melwani be reverted to the post of Stenographer Gr. I. Ex. 7, the order of reversion dated 9-12-1975 does not make any reference to these proceedings as the order is signed by the Registrar.

34. Looking the case from any point of view, the order of reversion passed against the plaintiff-respondent cannot be held to be a legal one.

35. For the reasons stated above, there is no force in this appeal which is hereby dismissed. Costs to be easy.