
(1994) 07 RAJ CK 0083
In the Rajasthan High Court
Case No : Civil Second Appeal No. 36 of 1994

Vatan Singh

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 06-07-1994

Acts Referred:

Citation : (1994) 2 RLW 290 : (1994) 2 WLC 611 : (1994) 2 WLN 71

Hon'ble Judges : R.R. Yadav, J

Bench : Single Bench

Judgement

R.R. Yadav, J.—The plaintiff appellant prefers this second appeal against the Judgment and Decree dated 14.10.93 passed by learned Additional District Judge, Bikaner, whereby, he has affirmed the Judgment and Decree passed by learned Munsif and Judicial Magistrate, Bikaner on 2.4.1987 in civil suit no. 362/83. The suit was filed by the plaintiff appellant before the Trial court on the ground inter alia that he was working as Patwari and he was served with a charge sheet vide order dt. 14.7.75, by the said order he was also placed under suspension.

2. An enquiry was conducted and after enquiry the Disciplinary Authority vide his order dated 16.8.77 gave the punishment of stoppage of two annual grade increments with cumulative effect.

3. Against the aforesaid punishment awarded by the Disciplinary Authority the plaintiff appellant preferred an appeal before the Colonisation Commissioner which was rejected on 26.6.83 due to which the plaintiff appellant suffered a loss of Rs. 2290/- towards his basic pay. So far as the loss regarding Dearness Allowance it is alleged that details of the same shall be sought from the respondents.

4. After service of summons the respondents no. 1,2 and 3 filed their written statement denying the allegations made in the plaint. The defendant-respondents inter alia stated in their written statement that aforesaid punishment

was imposed on the plaintiff appellant after holding enquiry and after affording reasonable opportunity of being heard to the plaintiff appellant.

5. On the basis of the aforesaid pleadings of the parties necessary issues were framed by the learned Munsif and Judicial Magistrate, Bikaner. Opportunity to adduce oral and documentary evidence was afforded by the learned trial court.

6. After analytical discussion of oral and documentary evidence, the learned trial court partly decreed the suit filed by the plaintiff appellant and partly suit was dismissed vide his Judgment dt. 2.4.1987.

7. That being aggrieved against the Judgment and Decree dt. 2.4.87 passed by learned trial court an appeal was filed before the learned Distt. Judge, Bikaner which was transferred for disposal according to law before the learned Addl. Distt. Judge, Bikaner. The learned Lower Appellate Court also after analytical discussion of oral and documentary evidence on record dismissed the appeal and affirmed the Judgment and Decree passed by learned trial court vide his Judgment and Decree dt. 14.10.93.

8. This court on 10.2.94 after hearing the learned Counsel for the plaintiff appellant issued notice to the respondents to show cause as to why this appeal be not admitted for hearing. Notices have been served upon the respondents and they are represented by Dy. Government Advocate, Shri H.R. Panwar.

9. I have heard learned Counsel for the plaintiff as well as the learned Counsel for the defendant respondents and also perused the substantial questions of law formulated by the learned Counsel for the plaintiff appellant. In my considered opinion the questions formulated in the instant second appeal cannot said to be substantial questions of law, therefore, the instant second appeal is liable to be dismissed on this ground alone. The learned Counsel for the plaintiff appellant submitted before me that the plaintiff has not been afforded reasonable opportunity of being heard before the enquiry Officer, therefore, the punishment imposed upon him is in utter breach of Rule 14 read with Rule 16 (9) of the CCA. Rules, In my humble opinion, in the present case show cause notice was given to the plaintiff by the Enquiry Officer and a particular date was fixed by him for hearing but the plaintiff did not care to appear before him on the date fixed by him. The plaintiff also did not care to give the explanation to show cause notice issued to him. In view of the aforesaid facts and circumstances it cannot be argued that the plaintiff has not been afforded reasonable opportunity of being heard before imposing the punishment. If the plaintiff did not care to file his explanation to the show cause notice issued to him and if he did not care to appear before the Enquiry Officer on the date fixed by him then in such circumstances the Enquiry Officer has no option except to proceed ex-parte against him. If an opportunity is afforded by Enquiry Officer to the delinquent employee to give his explanation and to adduce evidence and he deliberately avoided to avail that opportunity of being heard, therefore, in such a situation it cannot be held by any stretch of imagination that no opportunity of hearing was

given to the delinquent employee.

10. It is also brought to my notice by the learned Counsel for the plaintiff appellant that there was allegation of bias against the enquiry officer. In my humble opinion it is easy to make allegation about bias but it is difficult to prove the same. In the present case I am not satisfied that enquiry officer was biased against the plaintiff appellant. Burden of proof to establish bias rests on the plaintiff appellant which he miserably failed to prove. The learned Additional District Judge has rightly disbelieved the plea of bias raised by the plaintiff appellant.

11. A close scrutiny of the Judgment dated 2.4.87 passed by learned Munsif and Judicial magistrate, Bikaner and the Judgment and Decree dated 14.10.93 passed by learned Additional District Judge, Bikaner leads towards an irresistible conclusion that both the courts have recorded categorical findings that the plaintiff appellant has not been denied reasonable opportunity of hearing by the Disciplinary Authority. In support of the afore said concurrent finding of facts both the courts below have given cogent and convincing reasons with which I am in full agreement.

12. Since the instant appeal is concluded by concurrent finding of facts recorded by both the courts below and no substantial question of law is involved, therefore, it is hereby dismissed. Both the parties are directed to bear their own costs.