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Decided on - 3.12.1982

Duration -

6045

In the Court of the Civil Judge, (Senior Division),

At Chandrapur

(Before Shri B.H. Sontakke, B.A., LL.B.)

Civil Suit No. 73 of 1982

CAT / BOM / TA NO. 36 / 86

Shri Wasekar,  
Advocate

( Plaintiff )  
( Age - 28 years, Occupation - Service )  
( Resident of - Bakhardi, Taluka- Rajura, )  
( District - Chandrapur )

Plaintiff

- Versus -

Shri S.H.  
Shanashchandra,  
Advocate

( 1) Union of India through Post Master )  
( General, Maharashtra Circle, Bombay, ) Defendants  
( Bombay. )  
( 2) Superintendent of Post Offices, )  
( Chanda Division, Chandrapur and )  
( 3) Sub Divisional Inspector of Post )  
( Offices, Chanda Central, Sub )  
( Division, Chandrapur. )

JUDGMENT

(Delivered on this 3rd day of December, 1982)

3.12.82  
JUDGMENT

This is a suit for declaration seeking declaration to the effect that the plaintiff's service is illegally put off by the defendants by their Orders dated 18.2.1982 and 27.2.1982 and for further declaration to the effect that the plaintiff is still in the service of the defendants and hence entitled for salary.

2. The plaintiff's case in brief is that the plaintiff was appointed as a Post Master at Bakhardi by the appointment order dated 1.12.1975 issued by the defendant No.2. According to the said order of appointment, the plaintiff is appointed as Extra Departmental Branch Post Master of Bakhardi Branch Post Office and he shall also be governed by the Post and Telegraph Extra Departmental Agents (Conduct and Services) Rules, 1964 as amended from time to time. On 18.2.1982 the defendant No.3 issued order to the plaintiff contending that whereas the work and conduct of the plaintiff was under investigation, therefore, the plaintiff was hereby ordered to be put off from the service of Extra Departmental Branch Post Mastership with immediate effect. It is alleged by the plaintiff that he was appointed by the defendant No.2 and therefore, the defendant No.3 has no right or power to put off the plaintiff from his service. Moreover, it is not mentioned in the said order dated 18.2.1982 from which date the plaintiff was to be put off from his service. It is, therefore, contended by the plaintiff that the said order dated 18.2.1982 is illegal, improper and ambiguous. It is further alleged by the plaintiff that he had made an application to the defendant No.2 alleging that the defendant No.3 was harrassing him. The enquiry has been made by the defendant No.3 and the Main Overseer, Rajura. No opportunity was given to the plaintiff for his defence in the enquiry held against him.

(2)

The enquiry is, therefore, improper and illegal. On 27.2.1982 the defendant No.2 has confirmed the said order of the defendant No.3. It is alleged by the plaintiff that the defendant No.2 attempted to rectify the mistakes committed by the defendant No.3 in issuing the order of put off by the defendant No.3. Thus, the defendant No.2 and 3 are taking undue advantage of their official capacity and power. It is, therefore, contended by the plaintiff that both the orders in question dated 18.2.1982 and 27.2.1982 issued by the defendant No.3 and confirmed by the defendant No.2 are illegal, improper and are liable to be set aside. Hence, the plaintiff this suit seeking declaration to the effect that the order of put off of the plaintiff from the services of the defendants dated 18.2.1982 issued by the defendant No.3 and subsequently confirmed by the defendant No.2 is illegal and void and further seeking declaration to the effect that the plaintiff is still in the employment of the defendants and as such entitled for salary, with cost of the suit.

3. The defendants resisted the suit by filing their written statement vide Ex. 22. They admitted that the plaintiff was appointed and subsequently put off as alleged by the plaintiff. However, they denied that the order in question of ~~putting~~ putting off the plaintiff from his service issued by the defendant No.3 and subsequently confirmed by the defendant No.2 is illegal, in any way. It is contended by the defendants that the plaintiff was not working properly on the post on which he was appointed by the defendants. There were many complaints against him from the public and so an enquiry about the said complaints

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was made by the defendant No.3 at the instance of the defendant No.2. After making necessary enquiry into the matter, the defendant No.3 submitted his report to the defendant No.2. Subsequently, the defendant No.2 directed the defendant No.3 to put off the plaintiff from his duty immediately and accordingly the defendant No.3 issued the order to that effect on 18.2.1982 to the effect that the plaintiff was ordered to be put off from his services with immediate effect. The said order was subsequently confirmed by the defendant No.2 on 27.2.1982 and duly served on the plaintiff as well as the defendant No.2. There is a prima facie case against the plaintiff to initiate departmental proceedings against him and till that time he is duly put off from his duty. Thus, the order of the defendant No.3 to put off the plaintiff from his service dated 18.2.1982 and subsequently confirmed by the defendant No.2 on 27.2.1982 are legal and valid and as such there is no force in the suit to claim relief of declarations as claimed by the plaintiff. Moreover, a new Branch Post Master is appointed in the place of the plaintiff by order dated with effect from 23.2.1982 and Shri J.N. Dhotre is working on the said position, since 23.2.1982. Hence, the plaintiff is not entitled for the relief of declarations to the effect that he be declared to be in the employment of the defendants even today, and is entitled for salary as claimed by him. Thus, the suit is filed by the plaintiff with malafide intention to harass the defendants and therefore liable to be dismissed with cost.

4. On these pleadings of the parties, the following issues were settled vide Ex.23 and my findings are recorded against

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each of them as mentioned below :-

<u>Issues</u>	<u>Findings</u>
1. Does the plaintiff prove that he was appointed as Post Master at Bakhardi as alleged ? ..	No. He was appointed as Extra Departmental Branch post Master, Bakhardi.
2. Does the plaintiff prove that the order dated 18.2.1982 issued by the defendant No.3 is illegal as alleged, ? ..	No
3. Does the plaintiff prove that the order dated 27.2.1982 issued by the defendant No.2 confirming the order dated 18.2.1982 of the defendant No.3 is illegal as alleged ? ..	No
4. To what relief the plaintiff is entitled ? ..	He is not entitled for any relief.
5. What order and decree ? ..	The suit is dismissed with cost, as per order mentioned below.

### Reasons

As to issue No. 1, 2, and 3

5. The plaintiff P.W.1 Srinivas (Ex. 17) has examined himself in support of the suit claim. The defendants

~~3.12.82~~ 31.12.82