

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

A.S.No.451 of 2009

JUDGMENT:

This is an appeal suit preferred under Section 96 read with Order 41 Rule 1 of the Code of Civil Procedure assailing the judgment and decree, dated 07.04.2009, rendered by the Court of I Additional Senior Civil Judge, Vijayawada in O.S.No.779 of 2005.

Heard learned counsel for the appellants/defendants and perused the material available before this Court. None for the respondent/plaintiff

For the sake of convenience, this Court deems it appropriate to refer to the status of the parties as arrayed in the cause title in the plaint.

The plaintiff, while working in the Southern Central Railway, pursuant to a report submitted by defendants 2 and 3, was charge-sheeted on certain allegations followed by regular enquiry and infliction of punishment by the disciplinary authority. The order of punishment was confirmed by the appellate and revisional authorities. The said orders were challenged by the plaintiff before the Central Administrative Tribunal and the Tribunal had set aside the same. Thereafter, pleading loss of reputation, financial loss and mental sufferance on the ground that the defendants conducted

enquiry proceedings in an irregular and illegal manner, the plaintiff instituted the suit for damages.

The defendants filed a written statement, resisting the suit. The learned I Additional Senior Civil Judge, basing on the pleadings, framed the followings issued and additional issue for trial:

Issues:

- (1) Whether the plaintiff is entitled for damages as claimed?
- (2) To what relief?

Additional Issue:

- (1) Whether the civil Court has got jurisdiction to entertain the suit?

In order to substantiate his pleadings, the plaintiff examined himself as P.W.1 and also examined his brother as P.W.2 and marked Exs.A1 to A10 and on the other hand, on behalf of the defendants, one Mr.G.Chandra Sekhar, Assistant Commercial Manager, was examined as D.W.1.

The learned I Additional Senior Civil Judge decreed the suit, directing the defendants to pay a sum of Rs.6,00,000/- with subsequent interest at 12% per annum from the date of suit till the date of payment in favour of the plaintiff. The said decree is under challenge in the present appeal suit.

This Court in ASMP No.1353 of 2009 on 11.08.2009, granted interim suspension of the judgment and decree rendered by the Court below subject to the condition of the appellants depositing 50% of the decretal amount together with costs while permitting the decree holder to withdraw the same without furnishing any security. Thereafter, the defendants questioned the said order before the Hon'ble Supreme Court by way of filing Civil Appeal No. 8903 of 2010. The Hon'ble Apex Court on 23.11.2009 stayed the said order and eventually allowed the civil appeal by directing continuation of the said order till the disposal of the appeal suit before this Court.

It is contended by the learned counsel for the defendants that the learned Senior Civil Judge grossly erred in decreeing the suit in view of the provisions of Section 186 of the Indian Railways Act, 1989 and it is also the submission of the learned counsel that the learned I Additional Senior Civil Judge did not assign any reasons for arriving at the conclusions and the learned Judge did not undertake any exercise while quantifying the amount.

In the above background, now the issues that emerge for consideration and determination by this Court are:-

- (1) Whether the suit is maintainable in view of the provisions of Section 186 of the Indian Railways Act?

- (2) Whether the evidence on record justifies the grant of relief in favour of the plaintiff?

In order to deal with Issue Nos.1 and 2, it would be highly essential to refer to the provisions of Section 186 of the Indian Railways Act and the said provision reads as under:

“Section 186: Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government, any railway administration, a railway servant or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.”

A reading of the above provision of law makes it very much clear that any action on the part of the Officers of the Railways while discharging their official functions in good faith cannot be subject matter of the suit.

In the instant case, the defendants while discharging their official duties, initiated disciplinary enquiry, submitted enquiry report after holding enquiry, inflicted punishment on the plaintiff and dismissed the appeal and revision filed by the plaintiff.

In this connection, it may also be appropriate to refer to the evidence of the plaintiff as P.W.1. As P.W.1, the plaintiff categorically deposed that he has no personal grievance against defendant Nos.2 to 8 and defendant Nos.2 to 8 passed orders

against him as quasi judicial authorities. P.W.1 also deposed that defendants 7 and 8 are the appellate and revisional authorities and discharged their duties. It is also required to be noted that during the course of cross-examination, P.W.1 further categorically deposed that he did not give any complaint against respondent Nos.2 to 8, making any attributions personally and he had no personal grievance against them.

It is also significant to note that the brother of the plaintiff was examined as P.W.2 and a reading of the evidence of P.W.2, in clear terms, discloses that he did not depose anything with regard to the conduct of the defendants.

It is the specific case of the defendants that in view of the statutory bar as stipulated under Section 186 of the Indian Railways Act, the very suit instituted by the plaintiff is not maintainable. A perusal of the judgment rendered by the Court below clearly reveals that the learned Senior Civil Judge did not consider the impact of the provisions of Section 186 of the Act. The material available before this Court including the evidence of the plaintiff clinchingly discloses that the defendants conducted disciplinary proceedings in accordance with law. Therefore, in the teeth of the language employed under Section 186 of the Act, this Court is of the considered opinion that the very suit instituted by the plaintiff is not maintainable.

Except the personal testimony of the plaintiff as P.W.1, no other evidence is available on record to support the allegations made by him. P.W.1 did not depose anything with regard to the loss of reputation and mental sufferance.

The judgments referred to by the learned Senior Civil Judge, in the definite opinion of this Court, have absolutely no relevance to the present case. Therefore, the judgment and decree rendered by the Court below cannot be sustained in the eye of law and the issues framed above are answered in favour of the defendants and against the plaintiff.

In the result, the appeal suit is allowed, setting aside the judgment and decree, dated 07.04.2009, rendered by the Court of the I Additional Senior Civil Judge, Vijayawada in O.S.No.779 of 2005.

Consequently, Miscellaneous Petitions, if any pending in this Appeal shall stand disposed of. No order as to costs.

A.V.SESHA SAI, J

Dt:08.08.2016.
kdl