

Satyanarain Prasad

Vs

State of Bihar

Civil Appeal No. 272 of 1969

(Shah JJ)

09.03.1970

JUDGMENT

SHAH, J. -

1. Proceedings were started against the appellant a Range Assistant Engineer, for some delinquency in the performance of his duty. A departmental enquiry was held and the enquiry officer submitted his report provisionally holding that the appellant was guilty of the delinquency charged against him. By a notice, dated May 17, 1968, the appellant was called upon to show cause why he should not be removed from service.

2. The appellant then moved a petition under Article 226 of the constitution in the High Court of Patna challenging the validity of the notice. The High Court summarily dismissed the petition. An application for a certificate to appeal to this Court was however successful. The High Court granted a certificate under Article 133(1) on the assumption that the value of the subject-matter in dispute was more than Rs. 20,000/-. In our judgment the High Court was incompetent to grant the certificate.

3. Under Article 133 of the constitution an appeal may lie to this Court from any judgment or decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies -

(a) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than Rs. 20,000/- or such other sum as may be specified in that behalf by Parliament by law; or

(b) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value; or

(c) that the case is a fit one for appeal to the Supreme Court;

and where the judgment, decree or final order appealed from affirms the decision of the court immediately below in any case other than a case referred to in sub-clause (c), if the High Court further certifies that the appeal involves some substantial question of law.

4. The High court has not issued a certificate under Article 133(1)(c). No substantial question of law is stated in the order granting certificate to arise out of the petition. In order that a certificate may be

issued by the High Court for leave to appeal to this court under clause (a) it is one of the conditions that the value of the subject-matter in dispute in the court of first instance and still in dispute on appeal in the Supreme Court is not less than Rs. 20,000/-. A certificate under clause (b) may be granted if the judgment, decree or final order involves a claim or question relating to property of the like amount or value. A claim in a petition challenging the validity of a notice to show cause why a person in public service shall not be dismissed or removed from service is not capable of valuation and can in no event be regarded as of a value not less than Rs. 20,000/-. It appears that counsel appearing on behalf of the State in the High Court conceded that the valuation was not less than Rs. 20,000/- but that concession will not invest the High court with jurisdiction to grant a certificate under clause (a) or clause (b) which the High Court did not possess.

5. In the absence of a valid certificate this appeal is incompetent.

6. The appeal fails. It will be open to the High Court to consider on the application filed by the appellant for certificate whether a case is made out for issue of certificate under Article 132(1) (c).

7. The appeal is dismissed. There will be no order as to costs.

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