

APPELLATE CIVIL.*Before Young, C. J. and Abdul Rashid J.***JAMUN (PLAINTIFF) Appellant***versus***SECRETARY OF STATE (DEFENDANT)****Respondent.****Civil Appeal No. 1813 of 1933.**

1935

Jan. 30.

Master and servant — Contract of service — Servant of the Crown — liability of — to be dismissed at will of the Crown.

The plaintiff was engaged as a cleaner in the North-Western Railway. After serving for some years his sight was found defective and he was dismissed. He brought a suit for damages for wrongful dismissal.

Held, that the plaintiff, as a servant of the Crown, was liable to be dismissed at will and pleasure, unless the Crown had deprived itself of the prerogative by Statute. The right to dismiss a servant of the Crown at will and pleasure still exists, even though there is included in the contract of service an express term to the contrary.

Denning v. Secretary of State (1), relied upon.

First Appeal from the decree of Lala Balak Ram, Subordinate Judge, 1st Class, Lahore, dated 19th May, 1933, dismissing the plaintiff's suit.

SHAMAIR CHAND and QABUL CHAND, for Appellant.

DIWAN RAM LAL, Government Advocate, for Respondent.

The judgment of the Court was delivered by—

YOUNG C. J.—Jamun was engaged as a cleaner in the North-Western Railway. After serving some years his sight was found to be defective and he was dismissed. He brought a suit in the lower Court against the Secretary of State for India in Council for damages for wrongful dismissal. The defendants

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pleaded, firstly, that the Courts had no jurisdiction to entertain such suit and secondly, that they were justified in dismissing the plaintiff. The learned Judge in the lower Court came to the conclusion that no action lay against the Secretary of State and dismissed the suit. Jamun appeals.

The Secretary of State in this matter represents the Crown. The plaintiff as a servant of the Crown is liable to be dismissed at will and pleasure unless the Crown has deprived itself of the prerogative by statute. The law on this point is well-settled [see *Denning v. Secretary of State* (1)]. The right to dismiss a servant of the Crown at will and pleasure still exists, even though there is included in the contract of service an express term to the contrary. Counsel for the appellant cannot point to any statutory protection in favour of the plaintiff. The appeal is, therefore, dismissed. The counsel for the Secretary of State does not press for costs.

P. S.

Appeal dismissed.

(1) (1920) 37 T. L. R. 138.