

**Citation :** 2003 DgLaw(Trib) 4459, 2004 (1) CPJ 224

**Fact Of The Case :**

The complainant-respondent had appeared at the M.A. Final (Sanskrit) examination held by the appellant University in the year 1999-2000, after having paid the examination fee of Rs. 1,190/-. He had been allotted Roll No. 37201 and the examination was to be held on 19.5.2000 at a college in Sikar. The case of the complainant was that for paper third he was to be examined in “**Kavi Athava Lekhak Ka Vishesh Adhayan**an” subject as had been filled in by him in his application form, but the invigilator/examiner in the examination hall delivered to him the paper of **Kavya (Gadya, Padya and Champu)**. On a demand by the complainant-respondent, the paper on Kavi Athava Lekhak Ka Vishesh Adhayan was not delivered to him and hence he could not answer the question paper third. **The respondent thus attributed deficiency in service** on the part of the appellant in the matter of examining him.

The Forum held that the appellant had rendered deficient services to the respondent and, therefore, required the appellant to pay a sum of Rs. 10,000/- as compensation for mental agony, Rs. 1,180/- refund of the examination fee and Rs. 500/- as cost of litigation.

Paper third of M.A. Previous and Final was to be answered by the students on Friday, May 19, 2000 from 3.00 p.m. to 6.00 p.m. The subject matter of such paper was as under :

Friday, May 19, 2000 3.00 p.m. to 6.00 p.m. <b>Sanskrit (Final)</b>	Group A Sahitya Paper III (ka) Kavya (Gadya, Padya and Champu) or (kha) Kavi Athava Lekhak Ka Vishesh Adhayan (1) Mass or (2) Kalidas
	Group B Vaidik Sahitya Paper III Vaidik Dharam, Dev Shastra Evam Vaidiki Prakriya or Rigved ke kisi mandal ka vishishtha adhayan
	Group C Darshan Shastra Paper III Vedant aur Meemansa Darshan

	<p>Group D Dharmshastra</p> <p>Paper III Nibandh Sahitya, Vyavhar evam prayashchit gyan</p> <p>Paper III (old) Dharam Shastra ka Itihas tatha sambadh sahitya</p>
	<p>Group E Vaidik Vigyan</p> <p>Paper III Itihas evam Bhashyakar"</p>

The case of the appellant was that in his application form the respondent had not specified the name of the poet or writer on whose work he was to be examined and, therefore, the paper on Kavya (Gadya, Padya and Champu) was delivered to him.

#### Observations :

The appellant has produced before us the photostat copy of the application form as submitted to it by the respondent. In the relevant column the respondent had mentioned that for paper third he intended to be examined in "Kavi athava Lekhak ka Vishesh Adhyanan" paper. He had, however, not disclosed his option as to whether he was to be examined in that paper with reference to the work of "Mass/Bhas" or "Kalidas". **It was respondent's own fault.**

**But the fault of the appellant** was that it had not rejected the application of the respondent on the ground of being incomplete or defective. It had entertained and maintained such application and issued admission card as well as permission card to the respondent.

Any way, the appellant may be said to be acting in good faith while delivering the paper third relating to Kavya (Gadya, Padya and Champu) to the respondent for the obvious reason that in the exercise of the alternate option, the respondent had not specified the name of the poet or writer on whose work he wanted to be examined.

Any way, the dispute could have been resolved in the examination hall by the delivery of the paper asked for by the respondent from the invigilator/examiner.

It may be possible that at that time the invigilator/examiner might not be in possession of the question paper, as was being desired by the respondent to

be delivered to him. **In any case, there was some element of deficiency in service on the part of the appellant.**

**Decision :** Looking to the facts and circumstances of the case and the degree of **negligence on the part of both the sides** and also taking into account the fact that the respondent had to lose one year of this study due to some negligence on the part of the appellant, **we are inclined to modify the impugned order.**

In the result the impugned order is modified to this extent only that the respondent would be entitled to a sum of Rs. 7,000/- only towards compensation for mental agony, refund of fees and cost of litigation. A sum of Rs. 14,000/- is reported to have already been deposited by the appellant with the Forum in compliance of Commission's order dated 18.7.2002. The Forum shall release a sum of Rs. 7,000/- out of such deposited amount to the respondent and shall return/refund the balance amount to the appellant as and when the parties approach it for such refund.

**Conclusion :** The appeal is partly allowed.