
(2014) 02 GAU CK 0050

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 7490 of 2013

Bhupendra Goswami

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14
Constitution of India, 1950 — Article 141, 227

Citation : (2014) 3 GLT 480

Hon'ble Judges : Abhay Manohar Sapre, C.J.;Ujjal Bhuyan, J

Bench : Division Bench

Advocate : Prag J. Saikia, D. Baruah, R. Gogoi and B. Gogoi, Advocate for the Appellant

Judgement

Abhay Manohar Sapre, C.J.

1. Heard Mr. P.J. Saikia, learned counsel appearing for the petitioners. It is not necessary to give any notice to the respondent of this petition because the O.A. was dismissed by the Tribunal in limini.

2. By filing this petition under Article 227 of the Constitution of India, the applicant of Original Application No. 373 of 2013 seeks to challenge the order dated 05.12.2013 passed by the Central Administrative Tribunal (for short hereinafter referred to as "the Tribunal") in the aforesaid matter.

3. By the impugned order, the learned Members of the Tribunal dismissed the Original Application filed by the writ petitioner herein by passing the following order:

"On perusal of the OA it is found that the subject matter of this OA does not come under the jurisdiction of this Tribunal under Section 14 of the Administrative Tribunal Act, 1985. Therefore, OA is dismissed for want of jurisdiction. Liberty is granted to the applicant to approach the appropriate forum."

4. On perusal of the afore-quoted order it is clear to us that the Tribunal dismissed the OA filed by the writ petitioner for want of availability of jurisdiction under Section 14 of the Act. Liberty was granted to the petitioner to approach the appropriate forum to get his grievance adjudicated.

5. Having heard the learned counsel for the petitioners and upon perusal of the record of the case, we have formed an opinion to allow this writ petition and while setting aside the impugned order, remand the case to the Tribunal for deciding the matter afresh in accordance with law.

6. In our opinion, since the Tribunal did not assign any reason as to on what basis and on what grounds the Tribunal did not possess jurisdiction to entertain the OA filed by the writ petitioner and therefore remand of the case to the Tribunal is called for to decide the issue afresh in accordance with law.

7. Before parting with the case, we consider it apposite to remind ourselves of the subtle observations made by the Supreme Court in a case reported in *State of Orissa Vs. Dhaniram Luhar*, , where while dealing with somewhat similar issue on the subject, their Lordships held as under:-

"6.....Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief in its order, indicative of an application of its mind; all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court order not sustainable. Similar view was expressed in *State of U.P. Vs. Battan and Others*, . About two decades back in *State of Maharashtra Vs. Vithal Rao Pritirao Chawan*, , the desirability of a speaking order while dealing with an application for grant of leave was highlighted. The requirement of indicating reasons in such cases has been judicially recognized as imperative. The view was reiterated in *Jawahar Lal Singh Vs. Naresh Singh and Others*, . Judicial discipline to abide by declaration of law by this Court, cannot be forsaken, under any pretext by any authority or court, be it even the highest court in a State, oblivious to Article 141 of the Constitution.

7. Reason is the heartbeat of every conclusion, and without the same it becomes lifeless. (See *Raj Kishore Jha Vs. State of Bihar and Others*, .

8. Even in respect of administrative orders Lord Denning, M.R. in *Breen v. Amalgamated Engg. Union*, (1971) 1 All ER 1148, observed: "The giving of reasons is one of the fundamentals of good administration." In *Alenxader Machinery (Dudley) Ltd. v. Crabtree*, 1974 ICR 120 (NIRC), it was observed "Failure to give reasons amounts to denial of justice." "Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part

of a sound judicial system; reasons at least sufficient to indicate an application mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

8. Needless to observe, we must always keep these observations in mind while passing the order. It is hoped that the Tribunal while deciding the matter would keep the aforesaid observation in mind.

9. As a result of the foregoing discussions, the writ petition is allowed. The impugned order is set aside. As a consequence thereof, the proceeding out of which this writ petition arises i.e. O.A. No. 373 of 2013, is restored to the file of the Tribunal for its decision in accordance with law as directed above. No cost.