
(2003) 04 AHC CK 0196
In the Allahabad High Court
Case No : C.M.W.P. No. 27296 of 1997

Kaushlesh Narain Singh and Others	Vs	APPELLANT
Upper Ayukt, Pratham Mandal and Others		RESPONDENT

Date of Decision : 17-04-2003

Acts Referred:

Citation : (2003) 3 AWC 2578

Hon'ble Judges : S.K. Singh, J

Bench : Single Bench

Advocate : M.D. Singh, for the Appellant;

Final Decision : Allowed

Judgement

S. K. Singh, J.—Heard learned counsel for the petitioner and learned standing counsel. As the pleading between the parties are complete, as prayed, matter is being heard and finally decided.

2. Challenged in this petition is the order of the appellate authority dated 28.2.1997 by which Appeal No. 2/7 of 1996-97 has been decided.

3. Besides other aspects, learned counsel for the petitioner submitted that the appellate authority has not applied his mind and has not referred to the various arguments advanced before him which were taken in the memo of appeal and has dismissed the appeal in a most arbitrary and cursory manner which being besides without Jurisdiction is in violation of principles of natural justice. Learned standing counsel on the basis of the facts mentioned in the judgment of the appellate authority and on the basis of the facts so stated in the counter-affidavit submitted that the judgment of the appellate authority is well-considered and reasoned and on the facts no interference is required.

4. There cannot be any dispute about the fact that the appellate authority having been conferred the appellate powers under the Act performs judicial functions. For arriving at any conclusion, it is quite necessary that after noting the

arguments, reasons may be given for either accepting or rejecting the same as it is only the process of thoughts which can make the conclusion so arrived to become a subject-matter of scrutiny by higher forum and thus in the event for arriving at a conclusion, there is no process of reasoning, no thoughts in respect to the matter in issue, have been expressed on the arguments so advanced. It cannot be said to be a judgment in the eye of law. A perusal of memo of appeal clearly indicates that various factual and legal aspects were raised by the appellant which learned counsel for the petitioner submits that they were highlighted and argued before the appellate authority for which there is also no mention in the appellate order that no other argument or ground was pressed and thus there appears to be no reason to disbelieve the contention that the grounds which were taken in the memo of appeal were argued before the appellate authority. It is clear from the judgment of the appellate court that he has not applied his mind to the facts and arguments and in a most cursory manner, he has dismissed the appeal. As the judgment of the appellate authority has been found to be faulty for the reasons indicated above, this Court does not propose to go into the merits in various submissions as tried to be advanced by the learned counsel for the petitioner as it is the first job of the appellate authority to deal with the same and record reasons and finding upon which it is to be judged by this Court.

5. For the reasons indicated above, this petition succeeds and is allowed. The impugned order dated 28.2.1997 is quashed. The matter is now remitted to the appellate authority with the direction that the appeal stands revived to its original number and that will be decided in accordance with law after affording opportunity to the petitioner keeping in mind the observation as has been made in this judgment preferably within three months from the date of receipt of certified copy of this order. Petitioner undertakes before this Court that he will file certified copy of this order before the appellate authority within two weeks from today upon which the appellate authority will move in the matter and will fix a date to decide the matter as directed above.

6. The writ petition thus stands allowed.