
(2015) 07 MP CK 0018
In the Madhya Pradesh High Court
Case No : Writ Petition 1526 of 2015

Munna Lal Pant

APPELLANT

Vs

The State of M.P. and Others

RESPONDENT

Date of Decision : 02-07-2015

Acts Referred:

Citation : (2015) 07 MP CK 0018

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : R.P. Singh, for the Appellant; Amit Bansal, Dy. Govt. Advocate, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Sujoy Paul, J.—The core issue in this matter relates with the power of the revisional authority under the M.P. Police Regulations. The petitioner was subjected to a disciplinary proceedings. This ended with imposition of punishment on 14.10.2014, Annexure P/1. The petitioner's pay was reduced by one stage with cumulative effect but suspension period was treated as suspension for the purpose of pay and allowances. The petitioner feeling aggrieved by this punishment order preferred an appeal on 7.11.2014, Annexure P/3. The petitioner's appeal could not be decided by the appellate authority. In the meantime, the revisional authority issued a notice to the petitioner to show cause. The petitioner filed his reply, Annexure P/5. Thereafter, by impugned order dated 27th February, 2015, the revisional authority enhanced the punishment from reduction of pay to compulsory retirement. This order is called in question on the ground that as per Regulation 270 (1), the suo moto revisional powers can be exercised only in such cases where employee is exonerated from the disciplinary proceedings. As per Clause 270 (2), a revision application needs to be preferred by aggrieved employee against the appellate order. Regular 270 (4) must be read with regulation 270 (2). The bone of contention of Shri R.P. Singh is that Regulation 270 has to be read in its entirety. The scope to Clause

(I) is confined to suo moto powers in cases of exoneration where as 270 (2) and (4) must be read conjointly and are applicable to the revisional authority when the application for revision is filed and an appellate order is passed. To bolster his submission he relied on a judgment of Chattisgarh High Court passed in Writ Petition No. 2729 of 2002 (Ram Sagar Sinha Vs. State of Chhattisgarh and Ors). The attention is drawn on impugned revisional order which shows that the petitioner has taken a specific objection that in the regular departmental enquiry, the prosecution witnesses did not support the story of prosecution. The revisional authority relied on the material collected behind the back of the petitioner at the stage of preliminary enquiry. It is urged that this is impermissible and this aspect is not dealt with by revisional authority. He further submits that apart from this, out of five charges alleged against the petitioner, he stood exonerated from charge No. 1, 4 and 5. Charge No. 2 and 3 were not that grave for which an extreme punishment of compulsory retirement could have been passed.

2. Prayer is opposed by Shri Amit Bansal, learned Dy. Govt. Advocate. He submits that a plain reading of Regulation 270 makes it crystal clear that there is no express bar on the revisional power of said authority and in cases where punishment is inadequate, he can very well enhance it after giving opportunity to the aggrieved employee. To elaborate, he submits that revisional authority can even exercise suo moto power for remitting, varying or enhancing the punishment imposed. In addition, he may order a fresh enquiry or taking of further evidence in this case. The only requirement is that he cannot vary or reverse any order unless until has been served on the purpose entrusted and adequate opportunity is given to them. Apart from this, he submits that since revisional order was already passed, appellate authority in its order dated 28.05.2015 opined that it is now not necessary to pass the appellate order. He submits that in case Annexure P/6 is set aside, liberty may be given to the appellate authority to deal with the appeal in accordance with law.

3. I have heard the counsel for both the parties at length and perused the record.

4. Before dealing with the rival contentions, it is apt to quote the Regulation 270 of M.P. Police Regulations, which reads as under :-

"270. (1) Every order of punishment of exoneration, whether original or appellate shall be liable to revision suo-moto by any authority superior to the authority making the order.

(2) Every appellate order by a final appellate authority shall be liable to revision by such final appellate authority, on application made in that behalf by the person against whom the order has been passed.

Explanation - For the purposes of this clause, the expression " final appellate authority" means the final authority empowered to hear an appeal under Police Regulation 262. (3) The provisions of Regulations 266, 267, 268 and 271 shall, as nearly may be, apply to an application for revision.

(4) The revising authority may for reasons to be recorded in writing exonerate or may remit, vary or enhance the punishment imposed or may order a fresh enquiry or taking of further evidence in the case :

Provided that it shall not vary or reverse any unless notice has been served on the parties interested and opportunity given to them for being heard.

5. The bone of contention of petitioner is that revisional authority can exercise suo-moto powers only in cases where employee is exonerated, in all other cases, he can exercise power on an application against the order of appellate authority. In my view, regulation 270(1) is not happily worded, it talks about "order of punishment of exoneration". "Exoneration" by no stretch of stretch of imagination can be said to be a punishment. Regulation 270(2), no doubt deals with power of the revisional authority to examine the validity of appellate order on an application made in that behalf by the person aggrieved. Regulation 270(4) in no uncertain terms makes it clear that revising authority may for reasons to be recorded exonerate, remit, vary or enhance the punishment imposed. In addition, he may order a fresh enquiry. However, this power can be exercised subject to the proviso appended to clause (4).

6. In the judgment of Ram Sagar Sinha (supra) Chhattisgarh High Court has reproduced the entire Regulation 270 but analyzed and discussed regulation 270(1) only. In my view, the said judgment is not an authority on the interpretation of Regulation 270(4). Regulation 270(4) gives power to the revising authority to undertake the aforesaid exercise. There is no restriction in the said clause that such power cannot be exercised suo-moto. In absence of any such restriction, the power can be exercised by said authority suo-moto or on an application preferred by aggrieved employee. Putting it differently, clause (4) is wide enough and gives power to the revising authority to undertake the exercise mentioned therein. Thus, I am unable to read clause (4) in the manner suggested by Shri R.P. Singh.

7. Clause (4) is inserted in the statute in order to give power of check to the revising authority so that he can examine the aspect of proportionality of punishment. In addition, in a fit case, he may order a fresh enquiry or direct for recording of fresh evidence. There is nothing in the statute which prevents revising authority to exercise power of clause (4) suo-moto. The aforesaid aspect was relating to power of revisional authority in exercising revisional jurisdiction.

8. The next point is regarding propriety of order of the revisional authority. This is not in dispute that charge No. 1, 4 and 5 are not found proved against the petitioner. Charge No. 2 and 3 were found proved. A plain reading of punishment order dated 14.10.2014 shows that the disciplinary authority agreed that except preliminary enquiry officer, other witnesses have turned hostile during regular departmental enquiry. The preliminary enquiry officer's report was based on certain video recording etc. The disciplinary authority opined that signatures on the translation of recording was signed by the witnesses. Although said witnesses

turned hostile, it cannot be forgotten that there exists a video recording. The petitioner raised this aspect before the revisional authority. In para 3 of revisional order, the revisional authority has reproduced the stand of the petitioner. However, in the last paragraph, wherein he analyzed the contention, he did not deal with the aforesaid aspect raised by the petitioner.

9. In other words, the revisional authority has not applied its mind as to why the stand of the petitioner regarding improper reliance on material collected during the preliminary enquiry, which was not supported in regular enquiry, is not trustworthy. The disciplinary proceedings are quasi judicial proceedings. Any order passed in such proceeding may have civil consequences and adverse impact. In such situation, it was obligatory on the part of revisional authority to deal with objection of the petitioner. The revisional authority is required to assign reason on such objection. Reasons are heartbeat of conclusion. In absence of reasons, mere conclusions cannot sustain judicial scrutiny.

10. The Apex Court in *Kranti Associates Pvt. Ltd. and Another Vs. Sh. Masood Ahmed Khan and Others*, (2010) 9 JT 362 : (2010) 9 SCC 496 : (2010) 10 SCR 1070 : (2010) 8 UJ 4022 , has held as under:-

"(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

11. Revisional authority, as analyzed above, has failed to apply its mind on the objections raised by the petitioner. Thus, decision making process on the part of revisional authority is vitiated. Thus, the revisional order dated 27.02.2015 is set aside. The matter is remitted back to the revisional authority to reconsider the objections taken by the petitioner in his response to show cause notice and then pass appropriate orders in accordance with law. Revisional authority shall take a fresh decision in accordance with law within three months from today.

12. Resultantly, petition is allowed to the extent indicated above. No costs.