

**(2010) 12 SHI CK 0421**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP (T) No. 7368 of 2008**

Rattan Chand

APPELLANT

Vs

Managing Director, Transport Corporation, and Another

RESPONDENT

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**Date of Decision :** 01-12-2010

**Acts Referred:**

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14

**Citation :** (2010) 12 SHI CK 0421

**Hon'ble Judges :** Rajiv Sharma, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Rajiv Sharma, J.—Departmental proceedings were initiated against the Petitioner under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 vide memorandum dated 9.7.1991 and penalty was imposed upon him of withholding of one increment with cumulative effect vide office order dated 24th March, 1998 (Annexure P-2). He preferred an appeal against Annexure P-2 before the appellate authority. Same was rejected by the appellate authority, i.e. the Managing Director of the Respondent-Corporation vide Annexure P-1, dated 13.11.2000. Annexure P-1 is neither speaking nor detailed. It is settled law by now that the appellate order must be speaking, detailed and reasoned and the same must be passed after taking into consideration all the grounds/pleas raised in the memorandum of appeal.

2. Their Lordships of the Hon''ble Supreme Court in Roop Singh Negi Vs. Punjab National Bank and Others, have held as under:

Furthermore, the order of disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the Appellant, there was no reason as to why the order of discharge passed by the criminal Court on the

basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inference drawn by the enquiry officer apparently were not supported by any evidence. Suspicion as is well known, however high may be, can under no circumstances be held to be substitute for legal proof.

3. In *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others*, their Lordships of the Hon''ble Supreme Court have held that the appellate authority must give reasons while affirming the order of lower authority. Their Lordships of the Hon''ble Supreme Court in *G. Vallikumari Vs. Andhra Education Society and Others*, have held that the disciplinary authority must record reasons while passing the order.

4. Their Lordships of Hon''ble Supreme Court in *Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota v. Shukla and Brothers* (2010) 4 SCC 785 have held that the orders/decision by the administrative/executive authority/quasi judicial authority must be speaking/reasoned. Their lordships of the Hon''ble Supreme Court in have held as under (paras 13 and 19):

At the cost of repetition, we may notice, that this Court has consistently taken the view that recording of reasons is an essential feature of dispensation of justice. A litigant who approaches the Court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the Court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher Court in the event of challenge to that judgment. Now, we may refer to certain judgments of this Court as well as of the High Courts which have taken this view.

In the cases where the Courts have not recorded reasons in the judgment, legality, propriety and correctness of the orders by the Court of competent jurisdiction are challenged in absence of proper discussion. The requirement of recording reasons is applicable with greater rigor to the judicial proceedings. The orders of the Court must reflect what weighed with the Court in granting or declining the relief claimed by the applicant. In this regard we may refer to

certain judgments of this Court.

5. The Petitioner had filed an appeal against the imposition of penalty to the appellate authority. The appellate authority has not taken into consideration while considering the appeal, the grounds/pleas raised in the memorandum of appeal. It is necessary for the appellate authority to take into consideration all the pleas raised in the memorandum of appeal and thereafter to apply its independent mind. The purpose of passing a detailed/reasoned order is to enable the Court to see whether there is due application of mind or not. Their Lordships in Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others, have held that the appellate authority must give reasons while affirming the order of lower authority.

6. Consequently, in view of the definitive law laid down by their Lordships of Hon"ble Supreme and the observations made hereinabove, the petition is allowed. Annexure P-1, dated 13th November, 2000 is quashed and set aside. The appellate authority is directed to hear the appeal afresh and thereafter pass speaking/reasoned order by taking into consideration all the grounds/pleas raised by the Petitioner in the memorandum of appeal. The Petitioner shall also be afforded personal hearing. Needful be done within a period of six weeks after production of the certified copy of the judgment. The pending application(s), if any also stands disposed of. No costs.