
(2014) 01 PAT CK 0021
In the Patna High Court
Case No : CWJC No. 10860 of 2007

Ravi Shankar

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 20-01-2014

Acts Referred:

Citation : (2014) 3 PLJR 458

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Rama Kant Sharma and Rajesh Kumar, Advocate for the Appellant;
Y.V. Giri, Ishwari Bank Singh, Manish Kumar Singh, Kumar Priya Ranjan and
Sushil Kr. Singh, Advocate for the Respondent

Judgement

Chakradhari Sharan Singh, J.—Heard Mr. Rama Kant Sharma, learned senior counsel appearing on behalf of the petitioner and Mr. Y.V. Giri, learned counsel appearing on behalf of the Respondent-Bank. The petitioner is aggrieved by the order dated 23.4.2013 passed by the Managing Director, Central Co-operative Bank, Ara, whereby petitioner has been dismissed from service after holding a disciplinary proceeding. The petitioner is also aggrieved by the appellate order dated 10.7.2007 passed by the Registrar of Cooperative Societies, Bihar, Patna, whereby he has rejected the appeal preferred by the appellant against the impugned order of dismissal from service.

2. The petitioner at the relevant point of time was working as Accountant in Central Co-operative Bank Limited, Ara at Dhansoin Branch. A departmental proceeding was initiated against him on the charges of financial irregularities and misappropriation of bank money.

3. In view of the nature of the order which I am going to pass in the present case, I need not deal with the facts leading to passing of the order of dismissal in detail. Against the order of dismissal, the petitioner had preferred statutory appeal before the Registrar Co-operative Societies, Bihar, Patna vide Service Appeal No. 97 of 2004 which came to be dismissed by an order dated 10.7.2007

which has been annexed as Annexure-1 to the writ application. The appellate order is a cryptic two-paragraph order. First paragraph briefly deals with the facts as regards initiation of the proceeding and final order of dismissal. The consideration of the appellate authority in the said appellate order is in following terms:--

4. The appellate order on the face of it cannot be sustained as it does not discuss at all the grounds taken by the petitioner in his memo of appeal and the reason why such grounds taken by the petitioner were not tenable in the opinion of the appellate authority. In my opinion, it does not reflect at all any application of mind and is therefore, in violation of the principles of natural justice. The law that every order passed by an authority exercising quasi-judicial function must be supported by reasons recorded in the order itself to demonstrate his application of mind has been emphasized and reiterated by the Apex Court as well as this Court on several occasions. Giving reasons is an essential element of administration of justice and a right to reason is an indispensable part of sound system of judicial review. Reference may be made in this regard to the Apex Court judgment in case of Ravi Yashwant Bhoir Vs. District Collector, Raigad and Others, laying down the law in following terms in paragraph 46:--

"46. The emphasis on recording reason 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 of mind of the authority before the 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 the reasons for the order made, in other word, a speaking out. The inscrutable face of the sphinx is ordinarily incongruous with a judicial or quasi-judicial performance."

5. In case of Director (Marketing) Indian Oil Corpn. Ltd. and Another Vs. Santosh Kumar, , the Supreme Court emphasized the need of recording reasons by the Appellate Authority on the principle that absence of reasons amounts to non-application of mind.

6. The impugned order dated 3.7.2007/6.7.2007 issued vide memo No. 10.07.2007 passed by the Registrar Cooperative Societies, Bihar, Patna in Service Appeal No. 97 of 2004 is accordingly, quashed. The matter is remanded back to the Registrar Co-operative Societies, Bihar, Patna to consider the petitioner's appeal afresh and pass reasoned and speaking order dealing with the grounds taken by the petitioner in the memo of appeal. Keeping in view the chequered history of this case, I consider it appropriate to direct the appellate authority i.e. Registrar, Cooperative Societies, Bihar, Patna to give the petitioner an opportunity of personal hearing by fixing specific date for that purpose. The petitioner shall have the opportunity to raise all the legal issues in course of such

hearing in addition to the grounds taken in the memo of appeal.

7. In any event, the appeal must be disposed of finally within a period of six months from the date of production/communication of copy of this order. The writ application is accordingly, allowed.