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**(2016) 02 TP CK 0030**  
**In the Tripura High Court**  
**Case No : Writ Petition (C) No. 299 of 2015**

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|--------------------------------------|------------|
| Satyendra Bhattacharya, West Tripura | APPELLANT  |
| Vs                                   |            |
| Tripura Gramin Bank                  | RESPONDENT |

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**Date of Decision :** 09-02-2016

**Acts Referred:**

**Citation :** (2016) LIC 4669

**Hon'ble Judges :** Deepak Gupta, C.J. and S.C. Das, J.

**Bench :** Division Bench

**Advocate :** T.K. Roy, Senior Advocate, S. Chakraborty, K. Bhattacharji, Advocate, for the Respondent; C.S. Sinha, D.C. Saha, Advocate, for the Appellant

**Final Decision :** Disposed Off

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## Judgement

Deepak Gupta, C.J. - By means of this petition, the petitioner has challenged the order dated 22-11-2014 whereby penalty of dismissal from service has been imposed upon him and has also prayed that the appellate order dated 26-05-2015 be set aside.

2. The petitioner was an employee of the Tripura Gramin Bank (hereinafter referred to as the "Bank"). Very serious charges are levelled against him. In view of the decision which we propose to pass, we are not going into the detailed charges levelled against him. Suffice to say that this is not the first round of litigation. Disciplinary proceedings were initiated against the petitioner and the charges against the petitioner were that he had made irregular entries in the HBL block account of one Sri Jagat Bandhu Debbarma and similarly had also made irregular entries in the account of Sri Chittaranjan Debbarma. The allegation of the petitioner bank was that the petitioner employee had misused his fiduciary relationship with the bank and had caused financial loss to the bank by embezzling large amounts by misusing his ID and password given to him to access the computers of the bank.

3. One of the main disputes is whether the petitioner had mis-utilised the access

provided to the computers of the bank by using the password and ID. The petitioner filed an application urging for supply of certain documents. This Court had in W.R(C) No. 13 of 2014 passed the following order on 05.05.2014:-

"6. This Court, at this stage, when the proceedings are at the final stage is not going into the merits of the case. The only question is whether the bank should be directed to supply the copies of these documents to the petitioner or not. Since the bank has stated on affidavit and today also at the time of arguments it is repeated before us that no such documents are in existence, we cannot direct the bank to supply such documents.

7. However, we make it clear that since according to the bank no such documents are in its custody, the effect of this will be seen only by the Disciplinary Authority. It shall be for the Disciplinary Authority to decide whether such documents were created and whether such documents were handed over to the bank or not and if it comes to the conclusion that they were handed over to the bank then whether any adverse inference is to be drawn against the bank is an issue for the Inquiry Officer to decide and this Court cannot in any manner influence the order of the Inquiry Officer in this regard."

4. Thereafter, the Inquiry Officer submitted his report and the Inquiry Officer held the accused guilty of the charges Nos. 1 to 12 and 14 and also held that charge No. 13 was partially proved. The petitioner was supplied a copy of the report and submitted his written submission to the findings of the inquiry report. He also relied upon certain documents. Thereafter, the Disciplinary Authority passed the following order: -

"Ref:-TGB/VIGIL/F-248/Sect.-83/2014 Date-22.11.2014

Sri Satyendra Bhattacharya

SPF. NO-AS/937/156

Officer (Under Suspension)

S/O. Lt. Ramesh Ch. Bhattacharya

Natun Palli,

Krishnanagar, Agartala,

Tripura (W).

Dear Sir,

Re:- Final Order on Disciplinary Proceedings

A departmental enquiry, into the charges framed against you vide Bank's letter No-TGB/ VIGEL/F-248/Sects.43-46/2012 dated 07-02-2012 was held observing the principle of natural justice.

It appears from the record of the enquiry proceedings that you were allowed

reasonable opportunities to cross-examine the witnesses of the management and adduce both oral and documentary evidences of yours and submit counter argument before the enquiry.

I have carefully gone through and considered the records of the enquiry evidences, documents, findings of the Enquiry Officer and your submission dated 08.09.2014, I concur with the findings of the Enquiry Officer.

So, considering the facts and circumstances of the case, the gravity of the misconduct, the undersigned proposes to impose the following punishment as per sub-regulation 1(b) of Regulation 39 of Tripura Gramin Bank (Officers and Employees) Service Regulation, 2010.

"dismissal which shall ordinarily be a disqualification for future employment"

With immediate effect.

The period of your suspension will not be treated as on duty and you will not be paid any pay and allowances except what has been already paid during the period of suspension as subsistence allowance.

Disciplinary Authority Chairman"

5. The petitioner thereafter filed writ petition before this Court being W.P.(C) No. 12 of 2015 in which the following order was passed on 14.01.2015:-

"This writ petition is filed against an order whereby the petitioner has been dismissed from service. Admittedly, an appeal lies against the said order. Faced with this situation, Mr. C.S. Sinha, states that he had filed the writ petition because this is a case of no evidence and the principles of natural justice have been violated. He has also prayed that in case some time is given to the petitioner to file an appeal, the petitioner shall file an appeal.

2. In view of the above, it is directed that if the petitioner within 15 days from today files an appeal before the appellate authority, the same shall not be rejected on the ground that it is barred by time and shall be heard and decided on merits. The appeal must be disposed of by a reasoned order within 3 (three) months of the date of filing of the appeal. In case, the appellate order is against the petitioner, he shall be at liberty to approach this Court.

3. The writ petition accordingly stands disposed of."

6. Thereafter, the petitioner submitted a detailed appeal to the Tripura Gramin Bank and the same has been rejected. The petitioner was conveyed this rejection vide letter dated 26-05-2015. The Bank along with its reply has annexed the minutes of the meeting in which the decision was taken to reject the appeal and the relevant portion of the minutes reads as follows:-

"Agenda No. 04

An appeal by Sri Satyendra Bhattacharya, Officer Scale-I (Dismissed) for review

against major penalty imposed on him by Disciplinary Authority of the Bank. The Board note containing an appeal by Sri Satyendra Bhattacharya, Officer Scale-I (Dismissed) for review against major penalty imposed on him by Disciplinary Authority of the Bank was placed before the Board for perusal and decision.

As TGB Chairman is the disciplinary authority and also the Chairman of the Board, he left the meeting room and then again Shri Tapan Kumar Patra, AGM & CRM, UBI, Tripura Region, Agartala one of the Director of the Board was selected as Chairman to hear the cases against the appeal made by Shri Satyendra Bhattacharjee (Dismissed Officer) for review against penalty imposed on hi in by Disciplinary Authority of the Bank, as per direction of Hon"ble High Court of Tripura vide W.P.(C) 12 of 2015 though the date of appeal was bared by limitation.

Accordingly, threadbare discussions were held on all charges, departmental proceedings, appeal of Sri Bhattacharjee with due regards to the direction of Hon"ble High Court of Tripura in the W.P.(C) 13 of 2014 regarding User ID register and other documents for consideration of the appeal by the Enquiry Officer during departmental proceedings as well as by Disciplinary Authority while imposing penalty. Finally the Appellate Authority unanimously upheld the penalty imposed to Shri Bhattacharjee by the Disciplinary Authority of the Bank.

Resolution:

"Resolved that the Board note which contained the appeal by Sri Satyendra Bhattacharya, Officer Scale-I (Dismissed) for review against major penalty imposed on him by Disciplinary Authority of the Bank vide Board note No. 216/03/2015, 15.03.2015 be and is hereby perused and noted with above observation."

7. We are constrained to observe that neither the disciplinary order nor the appellate order contains any reasons. We had while dismissing the appeal of the petitioner and directing him to file an appeal clearly directed the Appellate Authority to pass a reasoned order. Reasons are the heart and soul of any judicial or quasi judicial order. An order which does not contain any reasons is virtually no order in the eyes of law. In this regard, we may refer the following judgments of the Supreme Court of India.

8. The Apex Court in Maya Devi (Dead) through LRs v. Raj Kumari Batra (Dead) through LRs and others, ((2010) 9 SCC 486) : (AIR 2011 SC (Supp) 417) has summarised the entire law on the subject and has emphasised the fact that all Courts and indeed all such authorities which exercise power to determine the rights and obligations of the individuals must give reasons in support of their orders. Reference has been made to Hindustan Times Ltd. v. Union of India, ((1998) 2 SCC 242) : (AIR 1998 SC 688); Arun v. Inspector General of Police, ((1986) 3 SCC 696): (AIR 1986 SC 1487); Union of India v. Jai Prakash Singh, ((2007) 10 SCC 712) : (AIR 2007 SC 1363); Victoria Memorial Hall v. Howrah Ganalantrik Nagrik Samity, ((2010) 3 SCC 732): (AIR 2010 SC 1285); Ram Phal

v. State of Haryana, ((2009) 3 SCC 258): (AIR 2009 SC (Supp) 1410), & Director, Horticulture, Punjab v. Jagjivan Parshad, ((2008) 5 SCC 539): (AIR 2008 SC (Supp) 327). After citing all the aforesaid judgments, the Apex Court held as follows:-

"28. It is in the light of the above pronouncements unnecessary to say anything beyond what has been so eloquently said in support of the need to give reasons for orders made by Courts and statutory or other authorities exercising quasi judicial functions. All that we may mention is that in a system governed by the rule of law, there is nothing like absolute or unbridled power exercisable at the whims and fancies of the repository of such power. There is nothing like a power without any limits or constraints. That is so even when a Court or other authority may be vested with wide discretionary power, for even discretion has to be exercised only along well recognised and sound juristic principles with a view to promoting fairness, inducing transparency and aiding equity.

29. What then are the safeguards against o an arbitrary exercise of power? The first and the most effective check against any such exercise is the well recognised legal principle that orders can be made only alter due and proper application of mind. Application of mind brings reasonableness not only to the exercise of power but to the ultimate conclusion also. Application of mind in turn is best demonstrated by disclosure of the mind. And disclosure is best demonstrated by recording reasons in support of the order or conclusion.

30. Recording of reasons in cases where the order is subject to further appeal is very important from yet another angle. An appellate Court or the authority ought to have the advantage of examining the reasons that prevailed with the Court or the authority making the order. Conversely, absence of reasons in an appealable order deprives the appellate Court or the authority of that advantage and casts an onerous responsibility upon it to examine and determine the question on its own. An appellate Court or authority may in a given case decline to undertake any such exercise and remit the matter back to the lower Court or authority for a fresh and reasoned order. That, however, is not an inflexible rule, for an appellate Court may notwithstanding the absence of reasons in support of the order under appeal before it, examine the matter on merits and finally decide the same at the appellate stage. Whether or not the appellate Court should remit the matter is discretionary with the appellate Court and would largely depend upon the nature of the dispute, the nature and the extent of evidence that may have to be appreciated, the complexity of the issues that arise for determination and whether remand is going to result in avoidable prolongation of the litigation between the parties. Remands are usually avoided if the appellate Court is of the view that it will prolong the litigation."

9. Another Bench of the Apex Court in Kranti Associates Private Limited and another v. Masood Ahmed Khan and others, ((2010) 9 SCC 496) : (2010 AIR SCW 5715) has with regard to recording of reasons summarised its directions in the following manner:-

"47. Summarizing the above discussion, this Court holds:

- (a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone pre-judicially.
- (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. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737).

(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. See Ruiz Torija v. Spain (1994) 19 EHRR 553, at 562 para 29 and Anya v. University of Oxford, 2001 EWCA Civ 405 (CA), wherein the Court referred to Article 6 of European Convention of Human Rights which requires,

"adequate and intelligent reasons must be given for judicial decisions".

(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".

10. Therefore, there can be no quarrel with the proposition that reasons are required to be given. In W.P.(C) No. 12 of 2015 we had specifically directed the Appellate Authority to give reasons. To be fair to Mr. T.K. Roy, learned Sr. Counsel appearing for the Bank, he did not dispute the legal requirement that reasons should be given. He, however, urged that since the Disciplinary Authority had only agreed with the report of the Inquiring Officer and the Appellate Authority had only dismissed the appeal, there was no requirement to give reasons.

11. We are unable to accept this contention. When an inquiry report is supplied and the delinquent official gives his response to the inquiry report, then the Disciplinary Authority must deal with all the questions which the delinquent official has raised in his objections to the acceptance of the inquiry report. Otherwise, there is no purpose of supplying copy of the inquiry report to a delinquent official. Similarly, when the grounds of appeal are detailed and raise substantial issues, the Appellate Authority must deal with the objections raised and cannot pass an order in general terms that it has considered the appeal in detail and finds no merit in it. This does not amount to giving reasons.

12. It was then contended by Mr. T.K. Roy, learned Sr. Counsel, that we may remand the matter to the Appellate Authority. He submits that since the petitioner did not challenge the order passed by us in W.R(C) No. 12 of 2015 whereby he was directed to file an appeal, now it is too late in the day to send the matter back to the Disciplinary Authority.

13. We cannot accept this argument. We had not gone into the merits of the case. We had only felt that the delinquent official had an adequate efficacious remedy of filing an appeal and when this was pointed out to the counsel, he prayed for some time to file appeal on behalf of the delinquent official. This cannot be construed to mean that the delinquent official cannot challenge the order of the Disciplinary Authority in these proceedings.

14. As pointed out above, reasons must be given in all orders which affect the rights of the parties. An order terminating the services of an employee visits him with very serious consequences and such an order must contain the reasons and

must deal with all issues which the delinquent official has raised in support of his submission that the inquiry report should not be accepted. There are no reasons in the order of the Disciplinary Authority. There are no reasons in the order of the Appellate Authority. We cannot, therefore, remand the matter back to the Appellate Authority because even if we were to do that we would have to direct the Appellate Authority to set aside the order of the Disciplinary Authority if it did not contain any reasons.

15. In view of the above discussion, we allow the writ petition, set aside the final order passed by the Disciplinary Authority as well as the Appellate Authority. The charges against the petitioner are serious and, therefore, the Disciplinary Authority shall pass a reasoned order dealing with the submissions raised by the delinquent official in his representation directed against the inquiry" report. The petitioner shall be reinstated in service but shall be deemed to be under suspension from the date of his dismissal but shall be entitled to suspension allowance in accordance with law. The Disciplinary Authority is directed to dispose of the matter as early as possible and in any event not later than two months from today. If the order of the Disciplinary Authority is against the petitioner, he may file an appeal to the Appellate Authority and in such an eventuality, the Appellate Authority must also pass a reasoned and speaking order.

16. The writ petition is disposed of in the aforesaid terms. No order as to costs.