
(2011) 01 AHC CK 0111

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 75709 of 2010

Shiv Prasad

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-01-2011

Acts Referred:

Citation : (2011) 01 AHC CK 0111

Hon'ble Judges : Sunil Ambwani, J; Jayashree Tiwari, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We have heard Shri S.S. Maurya, learned Counsel for the Petitioner. Shri Govind Saran appears for the Respondents.

2. In the third O.A. filed before the Tribunal in the matter in which the Petitioner serving as Khalasi was dismissed from service on the ground of absence from duties from 16.2.1999 to 1.6.2002, after serving a chargesheet in departmental enquiry, the Tribunal has dismissed the O.A. summarily with following observations:

We have heard Mr. S.S. Maurya, Advocate for the applicant and Mr. P.N. Rai, Advocate for the Respondent Nos. 1 to 3. It is evident from the record that the earlier one O.A. No. 33 of 2008 was also instituted by the applicant, and this O.A. was decided on 21st January, 2008 with a direction to the Respondents for deciding the revision of the applicant with a reasoned and speaking order. Learned Counsel for the applicant enclosed the order passed on the revision of the applicant in pursuance of the direction of this Tribunal (Annexure-A-3). It is evident from the order that revision was disposed of by speaking and reasoned order. As the order was passed by the competent authority in detail and all the grievances of the applicant were met. We will not like to consider the merits of the case. WE don't think it justified to admit this O.A. for hearing and this O.A. is liable to be dismissed summarily.

O.A. is dismissed at the preliminary stage. No order as to costs.

3. The Petitioner had challenged the order on several grounds taken in the original application, giving the reasons for his absence and had also challenged the validity of the procedure of the enquiry.

4. The Central Administrative Tribunal has been established under the Administrative Tribunal's Act, 1985 to deal with service matters pertaining to Central Government employees or of any union territory or local or other government under the control of the Government of India, or of a corporation owned or controlled by the Central Government. The Tribunal, as held in *L. Chandra Kumar Vs. Union of India and others*, provides for adjudicatory mechanism for judicial review of the administrative actions including the disciplinary matters at the first instance.

5. The Tribunal does not have the authority and jurisdiction to dismiss the Original Applications at the preliminary stage, unless it has no jurisdiction to entertain the matter; adjudication is barred by any statute; the alternative remedies or where the claim is barred by law of limitation. The original application should not be ordinarily dismissed summarily on the ground that it has no merits. Further such orders cannot in any case be passed without giving any reason at all.

6. There may be cases in which detailed and elaborate reasoning is not required to be given in the judgment, but there can be no judgment, from which neither facts can be ascertained nor the application of mind of the Tribunal, reflected by reasons on which the judgment has been pronounced can be deciphered.

7. In the present case, the Tribunal has erred in exercise of its jurisdiction in dismissing the claim petition at the preliminary stage without giving any reasons at all.

8. From paragraph 2 of the judgment quoted as above, we find that the only reason on which the Original Application, was dismissed is that the revision was disposed of by the competent authority by reasoned and speaking order in which all grievances of the applicant were met.

9. The Central Administrative Tribunal will be failing to exercise its jurisdiction, if it dismisses the Original Applications only on the ground that the disciplinary authority/ appellate authority or the revisional authority or any authority, which has passed the order has given reasons and has passed speaking order. The judicial review of the orders with which the applicants are aggrieved require a brief narration of facts and the grounds on which the orders are challenged, the arguments advanced, the points for determination and the reasons to be discussed with objectivity and rationality without any bias or prejudice, on which the conclusions are drawn. These are the basic requirements of adjudication.

10. The writ petition is allowed. The matter is remanded back to the Central Administrative Tribunal to decide the original application by considering the facts

and the grounds raised in the original application and by giving sufficient reasons, which may show the application of mind, and which may also facilitate the High Court to appreciate the contentions.