
(2014) 05 AHC CK 0202

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 11689 of 2014

Siraj Uddin Khan

APPELLANT

Vs

United India Insurance Co. Ltd.

RESPONDENT

Date of Decision : 09-05-2014

Acts Referred:

Citation : (2014) 7 ADJ 65 : (2014) 5 AWC 5409

Hon'ble Judges : Surya Prakash Kesarwani, J

Bench : Single Bench

Advocate : Saurabh Srivastava, Advocate for the Respondent

Final Decision : Allowed

Judgement

Surya Prakash Kesarwani, J.—Heard Sri Siraj Uddin Khan, the petitioner, in person and Sri Saurabh Srivastava, learned counsel for the respondents. In this writ petition the petitioner has challenged the order dated 11.11.2013 passed by the Appellate Authority and the orders dated 14.5.2009 and 26.6.2012 passed by the Disciplinary Authority.

2. Sri Siraj Uddin invites the attention of this Court to the order dated 2.9.2013 passed in Writ-A No. 43900 of 2013 wherein this Court directed the Appellate Authority to decide the appeal of the petitioner in accordance with law by a speaking and reasoned order. Pursuant to the aforesaid order the Appellate Authority passed the impugned order dated 11.11.2013 is under:

"I find that the order of Disciplinary Authority is well reasoned and logical and Penalty imposed on Shri S.U. Khan is reasonable and commensurate with the gravity of misconduct committed by him. I find no reason to interfere with the order dated 26.2.2012 of the Disciplinary Authority. Therefore, in exercise of powers conferred on me, I reject the appeal dated 19.2.2013 preferred by Shri S.U. Khan in terms of Rule 37(2) of GI (CDA) Rules, 1975 and confirm the order dated 14.5.2009 of Disciplinary Authority."

3. Apparently the impugned appellate order cannot be said to be a speaking and reasoned order. It merely says that there is no reason to interfere with the order dated 26.6.2012 of the Disciplinary Authority. The Disciplinary Authority, by the order dated 26.6.2012 awarded punishment merely observing that "I concurred with the findings of the Inquiry Officer and accept the same and thus hold Sri S.U. Khan, Assistant (T), Branch Office, Jaunpur guilty of the charge leveled against him."

4. The order dated 26.6.2012 has also been passed in the same manner as the order dated 14.5.2009. It appears that the impugned appellate order has been passed without compliance of the directions given in the order of this Court dated 2.9.2013. All the above referred orders are wholly non speaking and do not contain any reasons.

5. Sri Saurabh Srivastava, learned counsel for the petitioner is not able to support the orders passed by the Appellate Authority. He submits that the Appellate Authority has observed in the impugned order dated 11.11.2013 that the order of the Disciplinary Authority is well reasoned and logical and the penalty imposed is reasonable and commensurate with the gravity of misconduct committed by him. He submits that this observation is the compliance of the directions of this Court to pass a speaking and reasoned order.

6. I have carefully considered the submission of learned counsel for the parties. It may be noted that this Court on 24.2.2014 granted six weeks" to the respondents to file counter-affidavit. Again time was granted on 1.5.2014. However, counter-affidavit has not been filed as yet.

7. It is wholly undisputed that the order dated 2.9.2013 passed by this Court in Writ-A No. 43900 of 2013 was well within the knowledge of the Appellate Authority and therefore, the said authority was bound to pass a speaking and reasoned order. The impugned order dated 11.11.2013 passed by the Appellate Authority does not contain any reason.

8. In my view the impugned appellate order is bereft of reasons. Therefore it cannot be sustained. To give reason is rule of natural justice. The giving of reason in a decision is an essential attribute of judicial and judicious disposal of a matter before the Courts and authority and which is only indication to know about the manner of quality of exercise undertaken by the Appellate Authority.

9. Reason is heart beat of every conclusion. It introduces clarity in the order and without the same it becomes lifeless. Reasons substitute subjectivity and objectivity. The absence of reason render the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. Every litigant, who approaches the Court or appellate authority for relief is entitled to know the reasons for acceptance or rejection of his prayer. Right to reason is an indispensable part of a sound judicial system, which may at least be sufficient to indicate an application of mind to the matter before Court or authority. Another rational is that the affected party can know reasons that why

the decision has gone against him. This is one of the salutary requirement of natural justice.

10. In view of the discussions made above this Court is of the considered view that the impugned appellate order dated 11.11.2013 has been passed not only in breach of the clear direction of this Court in the order dated 2.9.2013 passed in Writ-A No. 43900 of 2013 but it has also been passed in gross violation of principles of natural justice. The impugned appellate order does not contain reasons for the conclusion reached and as such it cannot be sustained and therefore, deserves to be set aside.

11. In result the writ petition succeeds and hereby allowed. The impugned order dated 11.11.2013 is hereby set aside. The appeal is restored before the appellate authority to its original number.

12. The appellate authority is directed to consider all the grounds raised in the memo of appeal by the petitioner and decide the appeal by a speaking and reasoned order and not in the manner in which the impugned order dated 11.11.2013 was passed.

13. The appellate authority shall pass in accordance with law, a speaking and reasoned order after affording opportunity of hearing to the petitioner, within six weeks from the date a certified copy of this order is filed by the petitioner. The writ petition is allowed with direction aforementioned.