
(2017) 02 OHC CK 0030
In the Orissa High Court
Case No : O.J.C. No. 4380 of 1998

Smt. Annapurna Dei

APPELLANT

Vs

Managing Director

RESPONDENT

Date of Decision : 27-02-2017

Acts Referred:

Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 — Rule 13

Citation : (2017) 2 LLJ 372

Hon'ble Judges : Dr. B.R. Sarangi, J.

Bench : Single Bench

Advocate : Mr. G.A.R. Dora, Sr. Counsel, along with M/s. V. Narasingh, J.K. Lenka and G.R. Dora, Advocates, for the Petitioner; Mr. N.K. Mishra, Sr. Counsel, along with M/s. S.K. Mishra and Sudhir Kumar Mishra, Advocates, for the Opposite Parties

Final Decision : Allowed

Judgement

Dr. B.R. Sarangi, J.—The petitioner, while working as Senior Assistant, was instructed, vide office reference no.1617 dated 18.12.1996 of the District Manager, Orissa Agro Industries Corporation Limited (OAICL), to keep the records of Agro Machinery Division under the control of R.K. Parida, Asst. Manager. On receipt of the said office order, she entered into the office chamber of the District Manager, OAICL, Ganjam and requested him in a loud voice to cancel the order, in presence of Branch Manager, Parlakhemundi, Sri B.Rajguru and one outsider. In spite of repeated advice of the District Manager to give her problem for consideration in writing, the petitioner left the chamber by tearing office order. She, while leaving the chamber of the District Manager, scolded him at a loud voice outside the chamber in office premises by using rough language. Further, even though she was asked for an explanation, vide office order no.3732 dated 08.07.1996, by the D.G.M. (Admn.) for disobedience of office order, she did not submit the same.

2. Due to above lapses on her part, charges were framed on 06.01.1997 for

misconduct, disobedience of office order and insubordination, as well as causing disruption in smooth office work. She was called upon to submit explanation within 30 days as to why she would not be proceeded due to above lapses. In response to the same, she submitted explanation on 16.05.1997. Consequentially, an enquiry was conducted and, by following due procedure as per Rule 13 of the Orissa Civil Services (C.C.A.) Rules, the disciplinary authority imposed punishment to the effect that the petitioner be censured, her one increment be withheld without cumulative effect and her period of suspension from 13.12.1996 to the date of joining as per reinstatement order dated 19.06.1997 be treated as such, vide office order dated 05.08.1997 passed by the Managing Director of the Corporation. Against the said order passed by the Managing Director, the petitioner preferred an appeal on 28.11.1997, which was rejected by the Chairman by the impugned order dated 23.12.1997 in Annexure-5, which is the subject-matter of challenge before this Court in the present writ application.

3. Mr. G.A.R. Dora, learned Senior Counsel appearing for the petitioner, by referring to the order impugned, strenuously urged before this Court that the appellate authority has rejected the appeal without assigning any reason by passing a cryptic order, which cannot sustain in the eye of law. It is further contended that even though the writ application was filed in the year 1998, till date no counter affidavit has been filed to controvert the contention raised in the writ application. Therefore, the writ application may be allowed by applying the doctrine of non-traverse, and the impugned order being cryptic one be set aside.

4. Mr. N.K. Mishra, learned Senior Counsel appearing for the opposite parties states that since the petitioner misconducted herself, the punishment imposed by the disciplinary authority is well within its competence and, as such, the appellate authority having rejected the appeal no illegality or irregularity has been committed so as to warrant interference by this Court.

5. Heard Mr. G.A.R. Dora, learned Senior Counsel for the petitioner and Mr. N.K. Mishra, learned Senior Counsel for the opposite parties, and perused the records.

6. It reveals from the records that though the writ application was filed in the year 1998, no counter affidavit has been filed by the opposite parties in controverting the averments made in the writ application. Therefore, applying the doctrine of non-traverse this Court has to proceed to decide the case on the basis of the pleadings available on records.

7. Coming to the impugned order passed by the appellate authority, a careful perusal of the same would reveal that the same has been passed without any reason and the order is a cryptic one, namely, it is an one line order wherein it has been stated "the appeal petition cited above has been considered and rejected by the Chairman, O.A.I.C. Limited as it has no merit."

8. If the order passed by the adjudicating authority is subject to appeal or revision, the appellate or revisional Court will not be in a position to understand

what weighed with the authority and whether the grounds on which the order was passed were relevant, existent and correct; and the exercise of the right of appeal would be futile.

In *Siemens Engg. Mfg. Co. of India Ltd. v. Union of India*, AIR 1976 SC 1785 the apex Court held that the rule requiring reasons to be recorded by quasi-judicial authorities in support of the orders passed by them is a basic principle of natural justice.

Hon"ble Justice Bhagwati (as he then was), speaking for the Court, observed as follows:

"If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative Law, they may have to be so replaced, it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of *audi alteram partem*, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law."

The same view has been reiterated in *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

9. In *CIT v. Walchand & Co. (P) Ltd.*, AIR 1967 SC 1435 the apex Court observed:

"The practise of recording a decision without reasons in support cannot but be deprecated."

10. In *S.N. Mukherjee v. Union of India*, AIR 1990 SC 1984 the apex Court observed:

"Except in cases where the requirement of recording reasons has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions must record reasons in support of their decisions. The considerations for recording reasons are :1) such decisions are subject to the appellate jurisdiction of the Supreme Court under Article 136 as well as supervisory jurisdiction of the High Courts under Article 227; 2) it guarantees consideration by the adjudicating authority; 3) it introduces clarity in the decisions; and 4) it minimises chances of arbitrariness and ensures fairness in the decision-making process."

11. Reasons being a necessary concomitant to passing an order, the appellate authority can thus discharge its duty in a meaningful manner either by furnishing

the same expressly or by necessary reference to those given by the original authority.

In *Union of India v. Mohan Lal Capoor*, AIR 1974 SC 87 it has been held:

"Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject-matter for a decision whether it is purely administrative or quasi-judicial and reveal a rational nexus between the facts considered and conclusions reached. The reasons assure an inbuilt support to the conclusion and decision reached. Recording of reasons is also an assurance that the authority concerned applied its mind to the facts on record. It is vital for the purpose of showing a person that he is receiving justice."

12. In view of the aforesaid facts and circumstances, as well as the settled position of law noted above, this Court is of the opinion that the impugned order passed by the appellate authority, having not been assigned with any reasons, deserves to be quashed and is accordingly quashed. The matter is remitted back to the appellate authority to decide the same afresh, as expeditiously as possible, in compliance of the provisions of law.

13. The writ petition stands allowed. No order to cost.