
(2010) 08 SHI CK 0122
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 5059 of 2008

Smt. Kalpana Kumari

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 23-08-2010

Acts Referred:

Citation : (2010) 08 SHI CK 0122

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—This writ petition is being disposed of on a short ground that the appellate order disposing the appeal filed by the present petitioner against the order of the disciplinary authority whereby penalty was imposed upon her has been passed without giving reasons. Relevant portion of the order read as follows:

And whereas appeal of Smt. Kalpana Kumari, Peon was carefully considered and was found to be unsatisfactory.

Now, therefore, I, Yogesh Khanna, Commissioner-cum-Secretary (Planning) to the Government of Himachal Pradesh in exercise of the powers conferred under CCS(CCA) Rules, 1965 reject the appeal on the ground as no new facts relevant to the issue have been brought in by the appellant. The disciplinary authority has followed a correct procedure in imposing the penalty and the and the penalty imposed is not unreasonable.

2. The appellant had filed a detailed appeal. At this stage, I am not going into the merits of the case but the Appellate Authority was also required to give some reasons for affirming the order of the disciplinary authority. In this behalf reference may be made to the judgment of the Apex Court in Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others, which reads as follows:

In our opinion, an order of affirmation need not contain as elaborate reason as an order of reversal but that does not mean that the order of affirmation need not contain any reasons whatsoever. In fact, the said decision in State Bank of Bikaner and Jaipur and others Vs. Prabhu Dayal Grover, has itself stated that the appellate order should disclose application of mind. Where there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority. Hence, we cannot accept the proposition that an order of affirmation need not contain any reasons at all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority.

3. The order of the Appellate Authority quoted here-in-above does not show any application of mind to the questions raised by the petitioner in her appeal. Therefore, the writ petition is allowed and the order of the Appellate Authority is set-aside. The matter is remitted to the Appellate Authority, who may consider the appeal afresh and pass a reasoned order on the same. Needless to say that if the said order is against the petitioner, she shall be at liberty to approach this Court again.