
(2010) 12 SHI CK 0336
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 8351 of 2008

Tilak Raj

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 02-12-2010

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 14

Citation : (2010) 12 SHI CK 0336

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Judgement

Rajiv Sharma, J.—Disciplinary proceedings were initiated against the Petitioner under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 vide order dated 16th December, 1997. The penalty of removal from service was imposed upon the Petitioner by the disciplinary authority vide order dated 20.07.1998. He preferred an appeal before the Divisional Commissioner, Mandi against the order dated 20.07.1998. The same was dismissed on 06.06.2000. Thereafter, the Petitioner preferred the second appeal before the F.C.-Cum-Secretary (Revenue), Government of Himachal Pradesh. The same was also rejected vide order dated 10.04.2001 (Annexure A-8) without a speaking order. It is now well settled that the order passed by the appellate authority must be speaking and reasoned. The appellate authority has to take into consideration all the grounds raised in the memorandum of appeal. There must be due application of mind while deciding a statutory appeal.

2. Their Lordships of the Hon''ble Supreme Court in Roop Singh Negi Vs. Punjab National Bank and Others, have held as under:

Furthermore, the order of disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have assigned. If the enquiry officer had relied upon the confession made by the Appellant, there was no reason as to why the order of discharge passed by the criminal Court on the basis of selfsame

evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inference drawn by the enquiry officer apparently were not supported by any evidence. Suspicion as is well known, however high may be, can under no circumstances be held to be substitute for legal proof.

3. In *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others*, their Lordships of the Hon''ble Supreme Court have held that the appellate authority must give reasons while affirming the order of lower authority. Their Lordships of the Hon''ble Supreme Court in *G. Vallikumari Vs. Andhra Education Society and Others*, have held that the disciplinary authority must record reasons while passing the order.

4. Accordingly, in view of the observations made hereinabove, the petition is partly allowed. Annexure A-8, dated 10.04.2001 is quashed and set aside. The appellate authority is directed to rehear the appeal filed by the Petitioner and decide the same afresh in accordance with law by passing a speaking order, within a period of two months from the date of production of a certified copy of this judgment by the Petitioner. The Petitioner shall be heard in person. No costs.