

(2010) 03 RAJ CK 0109
In the Rajasthan High Court

Union of India (UOI) and Others

APPELLANT

Vs

Ranjeet Kumar and Others

RESPONDENT

Date of Decision : 10-03-2010

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution of India, 1950 — Article 136, 227

Citation : (2010) 2 WLN 475

Hon'ble Judges : Gopal Krishan Vyas, J;Arvind Mohanlal Kapadia, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. In all the above cases, common question of law is involved, therefore, for the sake of convenience, all these writ petitions are decided by this common order while taking into consideration facts narrated in D.B. Civil Writ Petition No. 5759/2007 Union of India and Ors. v. Ranjeet Kumar and Anr....

2. Briefly stated, facts of the case indicate that employee Ranjeet Kumar filed original application u/s 19 of the Central Administrative Tribunal Act, 1985 in which order of penalty of dismissal dated 19.07.2004 and order of appellate authority dated 14- 11/12-2004 were challenged and following prayer was made:

(a) That the application may kindly be allowed and the applicant be awarded the cost of litigation.

(b) That the impugned enquiry report Annexure A-3 and orders Annexure A-2 passed by the disciplinary authority dated 19-7-2004 imposing the penalty of dismissal from service against the applicant and the Annexure A-1, passed by the Appellate authority dated 14-11/12-04 upholding the penalty imposed upon the applicant by the disciplinary authority may kindly be quashed.

(c) That the respondents may kindly be directed to reinstate the applicant with all consequential benefits including his regularization in service with all financial benefits from the date his batch mates/juniors have been regularized.

3. While deciding the above original application, following adjudication was made by the Tribunal:

Undisputedly in the charge sheet there were four number of list of documents by which the article of charges were framed and were proposed to be sustained but none of those documents have either been properly discussed or examined to prove the charges. No witness, out of two witnesses has been examined at all. It appears that the enquiry officer proceeded with pre-determined mind to prove the charge. When the applicant submitted that he had not submitted any certificate as alleged in the charge sheet, no examination has been done by I.O. To prove that it is applicant who had submitted the certificate. Secondly, when the applicant claimed that the enquiry has been got conducted for a different school resulting into a wrong report, no finding has been recorded even on this issue. Thus, it is a case of no evidence.

The report was submitted by the enquiry officer which was accepted by the disciplinary authority without proper application of mind and the appellate authority has also failed to discharge its function. Once the report of enquiry officer shows that the finding recorded against the applicant is without any evidence and as such perverse and as such the punishment order as well as appellate authority also become void ab initio.

Accordingly this O.A. is allowed. Impugned orders are quashed and set aside. The applicant will be entitled to all the consequential benefits. However, the respondents will be at liberty to proceed against the applicant in accordance with the rules, law and principles of natural justice. No costs.

4. Upon perusal of the above order, it is abundantly clear that the learned Tribunal while allowing the original application quashed the impugned orders and while granting all consequential benefits further held that the respondents will be at liberty to proceed against the applicant (respondent No. 1 herein) in accordance with rules, law and principles of natural justice.

5. Admittedly, order of imposing penalty of dismissal from service passed against the applicant-respondent and order of appellate authority were under challenge in the original application and the Tribunal held that impugned orders were passed in contravention of the rules, so also, against the principles of natural justice, that too, without assigning any reasons. Therefore, in our opinion, the order impugned passed by the Tribunal is in consonance with the judgment of the apex Court reported in S.N. Mukherjee's case reported in (1990) 4 SCC 595, in which, the apex Court has held that quasi judicial order must contain reasons and should be passed after following the procedure laid down in the rules. Relevant para 35, 36, 39 and 40 of the said reported judgment run as under:

35. The decisions of this Court referred to above indicate that with regard to the requirement to record reasons the approach of this Court is more in line with that of the American courts. An important consideration which has weighed with the court for holding that an administrative authority exercising quasi-judicial

functions must record the reasons for its decision, is that such a decision is subject to the appellate jurisdiction of this Court under Article 136 of the Constitution as well as the supervisory jurisdiction of the High Courts under Article 227 of the Constitution and that the reasons, if recorded, would enable this Court or the High Courts to effectively exercise the appellate or supervisory power. But this is not the sole consideration. The other considerations which have also weighed with the Court in taking this view are that the requirement of recording reasons would (i) guarantee consideration by the authority; (ii) introduce clarity in the decisions; and (iii) minimise chances of arbitrariness in decision-making. In this regard a distinction has been drawn between ordinary courts of law and tribunals and authorities exercising judicial functions on the ground that a Judge is trained to look at things objectively uninfluenced by considerations of policy or expediency whereas an executive officer generally looks at things from the standpoint of policy and expediency.

36. Reasons, when recorded by an administrative authority in an order passed by it while exercising quasijudicial functions, would no doubt facilitate the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also weighed with this Court in holding that an administrative authority must record reasons for its decision, are of no less significance. These considerations show that the recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.

39. The object underlying the rules of natural justice "is to prevent miscarriage of justice" and secure "fair play in action". As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of

the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework where under jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U.S.A. And the Administrative Decision (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject-matter, the scheme and the provisions of the enactment. The public interest derlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case.

40. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.

6. In view of the aforesaid pronouncement of the Hon''ble Supreme Court, in our opinion, the Tribunal has not committed any error while passing the order impugned whereby the order of dismissal was set aside and liberty was granted to the petitioner Department to proceed against the applicant-respondent afresh in accordance with rules, law and principles of natural justice. Therefore, there is no force in this writ petition.

7. Having considered the entire position on facts as well as law, all above writ petitions filed by Union of India are hereby dismissed.