

(2002) 05 SC CK 0005
In the Supreme Court Of India
Case No : O.A. No. 2080 of 1999

Union of India (UOI) and Others

APPELLANT

Vs

Tejvir Singh

RESPONDENT

Date of Decision : 28-05-2002

Acts Referred:

Constitution of India, 1950 — Article 311(2)

Citation : (2002) 05 SC CK 0005

Hon'ble Judges : S. B. Sinha, C.J.; A. K. Sikri, J

Bench : Division Bench

Advocate : Rajinder Nischal, for the Appellant; Maninder Acharya, for the Respondent

Final Decision : Dismissed

Judgement

S.B. Sinha, C.J.—The respondent herein filed an original application, which was marked as O.A. No. 2080 of 1999, before the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, "the Tribunal"), questioning an order dated 01.02.1999 passed by the disciplinary authority as also the order dated 09.06.1999 passed by the appellate authority whereby and whereunder he had been dismissed from service.

2. The fact of the matter is not much in dispute. The petitioner and five other employees had been jointly charge-sheeted on 25.07.1997. The charges leveled against each one of them were identical.

They allegedly entered into the chamber of Additional Medical Superintendent of Ram Manohar Lohia Hospital, who was also the Chairman of the Selection Committee when Members of the Committee had assembled to hold interview for selection for the post of "Mechanic" and misbehaved with them.

3. All of them were placed under suspension. A joint enquiry was held and each one of them was found guilty by the Inquiry Officer. Whereas the disciplinary authority passed an order of removal from service in the case of petitioner, so far

as other five employees are concerned, they admittedly had been imposed a punishment of reduction of rank or stoppage of increments.

4. The learned Tribunal having found that the order of the disciplinary authority and the appellate authority did not contain any reason set aside the said orders.

5. Having heard the learned counsel appearing for the parties and having perused the impugned order, we are of the opinion that the judgment and order passed by the learned Tribunal cannot be said to be bad in law. It is now a well-settled principle of law that the proceedings before disciplinary authority are quasi-judicial in nature. Reasons therefore are required to be assigned by the disciplinary authority while passing an order imposing punishment.

We may, however, notice that if he agrees with the findings of the Inquiry Officer, no detailed order need be assigned, but the reasons so assigned by the disciplinary authority must disclose his application of mind.

Any order, which fails to demonstrate application of mind on the part of the appropriate authority, would be violative of the principles of natural justice.

Assigning of reason is a part of the principles of natural justice, although it may not be one of the main pillars thereof. Unless reasons are assigned, it may be difficult for the appellate authority to know as to what impelled the statutory authority in taking one view or the other. Such an order without assigning any reason would be nullity.

6. In *The Siemens Engineering and Manufacturing Co. of India Ltd. v. The Union of India and Anr.*, the Apex Court laid down the law in the following terms:-

"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 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."

7. In *Sengara Singh and Ors. v. State of Punjab and Ors.*, the Apex Court directed thus:-

"7. What then is the situation? As a sequel to police agitation, the State Government dismissed about 1100 members of the Police Force on the allegation

that they participated in the Agitation. The State Government also filed criminal prosecutions against a large number of the agitators. Subsequently, the State Government reinstated 1000 dismissed members of the Police Force in their original posts and withdrew the criminal cases against them. If the filing of the criminal cases was the distinguishing feature, which would distinguish the case of the present appellants from others, that feature has become irrelevant because the criminal cases against those who were subsequently reinstated have been withdrawn. It is not suggested that the present appellants were leaders or indulged into more violent activities. We repeatedly questioned the learned counsel to specify the distinguishing features of the present appellants from those in whose cases the Committee recommended the reinstatement and the State Government accepted the recommendations. There is not an (sic) of evidence, which would distinguish the case of the present appellants from those who were the beneficiaries of the indulgence of the Committee and the largesse of the State. The net result has been that the present appellants have been arbitrarily weeded out for discriminatory and more severe treatment than those who were similarly situated. This discrimination is writ large on the record and the Court cannot overlook the same."

8. In *T.V. Choudhary v. Chief Secretary, Government of A.P. and Anr.* (1987) 3 SCC 258, the Government singled out an officer for adverse action letting off co-delinquent officers, which was questioned. However, as during pendency of the Special Leave Petition, other persons similarly situated had also been placed under suspension and as such no order was passed, but it had been pointed out that such discrimination is not permissible.

9. *Bachhittar Singh v. The State of Punjab*, the Apex Court laid down the law in the following terms:-

"Departmental proceedings taken against a Government servant are not divisible in the sense in which the High Court understands them to be. There is just one continuous proceeding though there are two stages in it. The first is coming to a conclusion on the evidence as to whether the charges alleged against the Government servant are established or not and the second is reached only if it is found that they are so established. That stage deals with the action to be taken against the Government servant concerned. The High Court accepts that the first stage is a judicial proceeding and indeed it must be so because charges have to be framed, notice has to be given and the person concerned has to be given an opportunity of being heard. Even so far as the second stage is concerned Article 311(2) of the Constitution requires a notice to be given to the person concerned as also an opportunity of being heard. Therefore, this stage of the proceeding is no less judicial than the earlier one. Consequently any action decided to be taken against a Government servant found guilty of misconduct is a judicial order and as such it cannot be varied at the will of the authority who is empowered to impose the punishment. Indeed, the very object with which notice is required to be given on the question of punishment is to ensure that it will be such as would

be justified upon the charges established and upon the other attendant circumstances of the case. It is thus wholly erroneous to characterize the taking of action against a person found guilty of any charge at a departmental enquiry as an administrative order."

10. In this view of the matter, we are of the opinion that the impugned judgment is unassailable.

11. Furthermore, directions of the learned Tribunal to the effect that reasons were required to be assigned because of the fact that according to the petitioner, he pleaded discrimination vis-a-vis the employees, who are similarly situated, cannot also be faulted. It is now well known that the persons similarly placed are entitled to be treated similarly.

12. For the reasons aforementioned, we are of the opinion that the writ petition being devoid of any merit is liable to be dismissed. It is so directed. This writ petition is dismissed with costs quantified at Rs. 5,000/-.