

(2010) 11 KL CK 0080

In the High Court Of Kerala

Case No : Writ Petition (C) No. 21148 of 2010 (P)

V.C. Nair

APPELLANT

Vs

Air India and Regional Manager

RESPONDENT

Date of Decision : 09-11-2010

Acts Referred:

Citation : (2010) 11 KL CK 0080

Hon'ble Judges : S. Siri Jagan, J

Bench : Single Bench

Advocate : K.C. Eldho, for the Appellant; E.K. Nandakumar, for the Respondent

Judgement

S. Siri Jagan, J.—The petitioner is an employee of the 1st respondent-Air India. Disciplinary proceedings were initiated against the petitioner and penalty of reduction to a lower rank has been imposed on him by Ext.P3 order. Against the same, the petitioner has filed Ext. P4 appeal. The petitioner approached this Court complaining that Ext. P4 appeal has not been disposed of. The respondent has produced Ext. R1(a), which the respondents' claim is the order passed on Ext. P4 appeal. The petitioner submits that the petitioner has not been served with Ext. R1(a) order at any time although it bears the date 14.7.2010. He has therefore filed I.A. No. 151507/2010 seeking to amend the writ petition including a challenge against Ext. R1(a) also, which was allowed today.

2. The petitioner submits that Ext. R1(a) order is clearly violative of principles of natural justice insofar as it is an one line order giving no reasons why the grounds raised by the petitioner in the appeal filed by him as Ext. P4 cannot be accepted. The learned Counsel for the respondents would contend that Ext. R1(a) order is proper. Although it does not give elaborate reasons, the same shows that the appellate authority has completely agreed with the order of the disciplinary authority, which is a very detailed order considering the contentions of the petitioner, is his contention .

3. I have considered the rival contentions in detail.

4. Ext.R1(a) order reads thus:

This has reference to your appeal dated 2nd March 2010 requesting us to review the punishment of "Reduction to a lower grade" awarded to you vide Order No. GSD/MAA/1-5 [PERS/7801/1166 dated 15th November 2009.

We are of the opinion that your appeal was examined in detail and it is observed that there is nothing substantial warranting review of the punishment.

In view of the foregoing, we are not in favour of reviewing the punishment awarded to you vide the above Order.

No doubt, it does not give any reasons why any of the grounds raised in Ext. P4 are not acceptable. The petitioner has specifically raised an allegation of violation of principles of natural justice on the ground that the petitioner has not been afforded an opportunity of assistance of a lawyer. He has specifically stated that the witnesses to be examined are of very high rank and the petitioner was allowed an employee as defence assistance who is a much inferior officer compared with the witness of the management and therefore the defence assistant was afraid of cross examining the witnesses effectively. I am of opinion that that was a ground which the appellate authority ought to have considered very seriously apart from the other grounds raised in the appeal filed by the petitioner. In any event, the appellate authority ought to have given adequate reasons as to why the grounds raised by the petitioner in Ext. P4 appeal cannot be accepted. In the above circumstances, I am not satisfied that Ext. R1(a) is a proper order in an appeal.

Accordingly, Ext. R1(a) order is quashed. The Deputy General Manager-GH, Ground Handling SBU, C.S.I.A., Mumbai, shall re-consider Ext. P4 appeal after affording an opportunity of being heard to the petitioner and pass a reasoned order stating as to why the grounds raised in Ext. P4 appeal are not sustainable. The same shall be done as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. The writ petition is disposed of as above.