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L.Palaniappan Vs. the Additional Registrar, (Marketing, Planning and Development, Office of the Registrar of Co-operative Societies, Chepaulk, Madras 5 and Another

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Court : Chennai

Decided On : Mar-06-2000

Judge : T. Meenakumari, J.

Acts : [Constitution of India](#) -- Article 226;Tamil Nadu Co-operative Societies Act, 1983 -- Sections 153;Central Excises and Salt Act, 1944 -- Sections 36

Appeal No. : W.P. No. 5277 of 1991

Appellant : L.Palaniappan

Respondent : The Additional Registrar, (Marketing, Planning and Development, Office of the Registrar of Co-oper

Advocate for Def. : Mr. S.S. Sundar for M/s T.R. Rajaraman and Mr. S. Wilson, Adv.

Advocate for Pet/Ap. : Mr. G. Devadoss, Adv.

Judgement :

T. Meenakumari, J.

1. The writ petition is for the issue of writ of certiorari to call for the records relating to the proceedings of the first respondent made in RC.No.153745 of 1990/SF-1 dated 21.2.1991 and RC.No.253098 of 1989 SF-a dated 26.4.1990 and that of the second respondent made in RC.No.305 of 1982 (G) dated 11.4.1986 and Rc.No.305 of 1982 (G)-A dated 30.9.1985 and quash the same.

2. The case of the petitioner is that he was appointed as Junior Supervisor in the Co-operative Central Bank Kumbakonam and was posted at Kolapadu Village of Thiruthuraipoondi Taluk, Thanjavur District. Thereafter he was transferred to the Thiruvaimoor Agricultural Co-operative Credit Society as the Secretary and as on the date of filing of the writ petition he was working as Secretary. Aymoor Primary Co-operative Land Department Bank, Aymoor. Vedaranyam Taluk, Thanjavur District. According to the petitioner, while he was working as Secretary in the Thiruvaimoor Agricultural Co-operative Credit Society, on the direction of the then Minister 'for Co-operation, the Deputy Secretary, Co-operative Department of Government of Tamil Nadu by letter dated 12.12.1981 directed for an enquiry to be conducted into the affairs of Thiruvaimoor Agricultural Co-operative Credit Society. The Special Officer of the Kumbakonam Central Co-operative Bank issued a memo dated 20.1.82 to the Marketing Officer to conduct the enquiry and submit his report within three days. On 25.2.82 the report of the enquiry officer was submitted to the Special Officer, Kumbakonam Central! Co-operative Bank. The second respondent by proceedings dated 14.8.1982 placed the petitioner under suspension. The charges were framed on 25.9.1982. The petitioner has submitted his explanation on 19.10.1982. After a period of three years, the Enquiry Officer conducted the domestic enquiry and submitted his report on 10.6 1985. On the basis of the enquiry report, the second respondent awarded a, punishment of stoppage of increment for the period of three years with cumulative effect by proceedings dated 30.9.1985. Aggrieved, by the above order, the petitioner has preferred an appeal before the Board of Directors of, the second respondent Bank under by-law 13C of the Central Bank. According to the petitioner, the Special Officer of the Kumbakonam Central Co-operative Bank without going into the merits of the case, rejected the appeal by order dated 11.4.1986. Aggrieved by the said order, the petitioner has preferred a revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 before the first respondent. The first

respondent confirmed the order of the second respondent dated 30.9.1985 imposing the punishment for the charges held proved in the domestic enquiry. By the very same order, the first respondent directed for a fresh enquiry in respect of charges held not proved in the domestic enquiry. The petitioner has filed a review petition before the first respondent and the same has been rejected by order dated 21.2.1991. Questioning the above orders, the petitioner has filed the above writ petition.

3. Learned counsel for the petitioner has argued that the order of the appellate authority in rejecting the appeal without dealing with all factual aspects and rendering its findings is incorrect. It was further argued that in the absence of such considerations, it cannot be said that the appellate authority has applied its mind in disposing of the appeal. It was further argued that the revisional authority has ordered fresh enquiry to be conducted on the charges not proved, by order dated 30.9.1985. Learned counsel has argued that when the revisional authority has ordered for a fresh enquiry on the charges held not proved, should have given an opportunity of hearing to the petitioner, for satisfying the revisional authority that there is no need to order for fresh enquiry. Learned counsel for the petitioner has argued that in the circumstances it cannot be said that the revisional authority has exercised its jurisdiction properly and more so, it is violative of the principles of natural justice. Learned counsel has argued that the impugned orders have to be set at naught as there was no proper appreciation and consideration of the factual aspects either in appeal or in revision.

4. Learned counsel for the petitioner has relied upon the decision of this court in *S.Somasundaram v. Thanjavur Co-operative Supply Market Society Ltd.* : (1983)2MLJ523 to substantiate his contention that the appellate authority should deal with all factual aspects and points raised in the appeal. He has argued that in the absence of the above consideration by the appellate authority, it has to be held that there was no proper appreciation of the appeal.

5. Learned counsel for the respondents has argued that even assuming that there is no proper consideration of the factual aspects by the appellate authority, the petitioner has no right to question the same as the same has merged with the

orders passed by the revisional authority. He has further argued that the revisional authority having gone into the merits of the case, has confirmed the order of the appellate authority and further ordered for a fresh enquiry in respect of the charges not proved.

6. In *Travancore Rayons Ltd. v. Union of India*, : 1978(2)ELT378(SC) , the Apex Court has held that the order of the Central Government in rejecting a revision under S. 36 of the Central Excises and Salt Act. 1944. merely stated that the Government having carefully considered the points made by the applicant saw no reason to interfere with the order. The order of the Central Government being laconic was held to be vitiated. In setting aside the order, the Apex Court observed that a party who approaches the Government in exercise of a statutory right for adjudication of a dispute is entitled to know at least the official designation of the person who has considered the matter, what was considered by him, and the reasons for recording, a decision against him. To enable the High Court or the Supreme Court to exercise its Constitutional powers, not only the decision, but an adequate disclosure of materials justifying an interference that there has been a judicial consideration of the dispute by an authority competent in that behalf in the light of the claim made by the aggrieved party is necessary. If the officer acting on behalf of the Government chooses to give no reasons, the right of appeal will be devoid of any substance.

7. In *Umacharan v. State of Madhya Pradesh*, : (1981)IILLJ303SC the Supreme Court has observed that the reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial and reveal a rational nexus between the facts considered and conclusions reached. Reasons being

harbinger between the mind of the maker of the order to the controversy in question and the decision or conclusion arrived at, it excludes the chances to reach arbitrary, whimsical or capricious decision or conclusion. The reasons assure an inbuilt support to the conclusion and decision reached.

8. In *S.N.Mukherjee v. Union of India*, : 1990 CriLJ2148a , the Supreme Court has held that even the Central Government in passing an order in exercise of its revisional power gives no reasons the order will be regarded as a void one. 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 was further held that the revisional power, is coupled with a duty to exercise it in the interest of justice to the parties.

9. In the case the case on hand also, a reading of the impugned orders shows that there was no proper appreciation of the facts by the authorities below. Following the decisions of the Supreme Court cited above, the impugned orders are liable to be quashed. Accordingly the impugned orders are quashed. The writ petition is allowed. No costs. The matter is remanded to the appellate authority for re-consideration of the facts and for passing fresh orders, within a period of three months from the date of receipt of a copy of this order. In view of the disposal of the writ petition. W.M.P.No.8103 of 1991 is closed.

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