

Debi Deen Vs. the Divisional Operating Superintendent, Northern Railway, Moradabad and ors.

Debi Deen Vs. the Divisional Operating Superintendent, Northern Railway, Moradabad and ors.

SooperKanoon Citation : sooperkanoon.com/456587

Court : Allahabad

Decided On : Jan-05-1968

Reported in : AIR1968All355b

Judge : Lakshmi Prasad and ;K.C. Puri, JJ.

Acts : [Constitution of India](#) - Article 226; Railway Establishment Code - Rules 1716 and 1731

Appeal No. : Writ Petn. No. 184 of 1966

Appellant : Debi Deen

Respondent : The Divisional Operating Superintendent, Northern Railway, Moradabad and ors.

Advocate for Def. : A.B. Nigam, Adv.

Advocate for Pet/Ap. : Mohammed Abid Ali, Adv.

Disposition : Petition allowed

Judgement :

Lakshmi Prasad, J.

1. This petition under Article 226 of the Constitution has been referred to a Division Bench by one of us by his order dated 29-3-1967. By this petition the petitioner prays for the quashing of the order of punishment dated 14-9-1965, Annexure 4, and the appellate order dated 29-12-1965, Annexure 6, by which the petitioner's appeal from the aforesaid order of punishment has been dismissed.

2. The grounds that have been taken in the petition are all directed against the appellate order.

3. On the date on which certain charges were served on the petitioner he held the post of a Cabinman. The Assistant Operating Superintendent, Northern Railway, Moradabad, opposite party No. 2, served the charges, a copy of which is Annexure 2 to the petition. The petitioner submitted his explanation to those charges and a copy of the said explanation is Annexure 3 to the petition. After taking into consideration the explanation submitted by the petitioner, opposite party No. 2 passed the impugned order of punishment. In this order he mentions the charges and his findings thereon on the basis of which he passes the order of punishment but gives no reason for the findings recorded against the petitioner and for not accepting the explanation of the petitioner. A copy of the memorandum of appeal which the petitioner preferred from the order of punishment is Annexure 5, Opposite party No. 1 rejected the same by an order which is Annexure 6. It reads as below:--

'With reference to your appeal dated 23-10-65, addressed to DOS (M) against the orders of AOS (M) imposing the penalty of WIP for two years are hereby informed that DOS (M) has passed the following orders: The appeal is rejected'

It is in these circumstances that the present petition has been filed with a prayer indicated above.

4. The petition is opposed by the opposite parties. We have heard the learned counsel for the parties.

5. There is no controversy about the fact that the punishment which has been imposed on the petitioner is a minor punishment being one of those provided in

Clauses (i) to (iii) of Sub-rule (1) of Rule 1707 of the Railway Establishment Code. Likewise it is also not in controversy that the procedure laid down in Rule 1716 of the Code had to be followed in the instant case. Clause (e) of Sub-rule (2) of Rule 1716 provides that the record of proceedings in such case shall include the orders on the case together with the reasons therefor. As already stated the order of punishment, Annexure 4, fails to mention any reason for the findings recorded against the petitioner. So naturally the petitioner in the memorandum of appeal took it as one of the grounds that the order of punishment passed by opposite party No. 2 stood vitiated because of his failure to mention the reasons as required by Rule 1716. That the appeal had to be disposed of in accordance with Rule 1731 of the Code is again not in controversy Sub-rule (2) of Rule 1731 lays down the procedure to be followed in an appeal directed against an order imposing any of the minor penalties specified in Rule 1707. It says that in case of such an appeal,

'the appellate authority shall consider --

(a) whether the procedure prescribed in these rules has been complied with, and, if not, whether such non-compliance has resulted in violation of any provisions of the Constitution or in failure of justice;

(b) whether the findings are justified; and

(c) whether the penalty imposed is excessive, adequate or inadequate and after consultation with the Commission, if such consultation is necessary in the case, pass orders. . . ' The contention raised on behalf of the petitioner is that the order passed by opposite party No. 1 in appeal is bad in so far as he failed to comply with the requirement of Sub-rule (2) of Rule 1731. The argument is that opposite party No. 1 failed to comply with the requirement of Rule 1731 (2) in so far as he disposed of the appeal by an order consisting of four words, 'the appeal is rejected'. It is contended that the very requirement in Sub-rule (2) reproduced above on the part of the appellate authority to consider the various matters enumerated in Clauses (a), (b) and (c) thereof indicates that the appellate authority has to pass an order indicating that he has really considered these points and a cryptic order like the one passed in the instant case can by no means be

said to be in compliance with the requirements of Rule 1731 (2).

(6) As against that the contention raised by the learned counsel appearing for the opposite parties is that Rule 1731 (2) does not impose any duty on the appellate authority to give reasons for its decision in appeal. He contends that all that the rule requires is that the appellate authority should, while disposing of the appeal, consider the various points mentioned in it and that has been done in the instant case as shall appear from a true copy of the appellate order dated 23-12-1965, which is Annexure G to the counter affidavit. This order reads as below:--

'I have gone through his appeal. The appeal is rejected'

In support of his contention that the appellate authority is not at all required to give reasons for his decision in appeal he places reliance on two decisions given by two learned Single Judges of this Court, namely (1) Ram Prasad v. Traffic Inspector, Northern Rly. Hardoi. Writ Petn. No. 784 of 1964, D/-11-8-1966 (All). & (2) Om Prakash Saxena v. Divisional Superser, Writ Petn. No. 598 of 1964, D/-24-12-1965 (All). No doubt there are some observations in each of these two cases which lend support to the contention raised by the learned counsel appearing for the opposite parties. However in view of what has been laid down by the Supreme Court in the case of Madhya Pradesh Industries Ltd. v. Union of India, AIR 1966 SC 671 and the case of Bhagat Raja v. Union of India, AIR 1967 SC 1606, the two Single Judge decisions relied on by the learned Counsel for the opposite parties cannot be taken to lay down good law. In paragraph 9 of AIR 1966 SC 671, the relevant observations occur as below:--

'What is essential is that reasons shall be given by an appellate or revisional tribunal expressly or by reference to those given by the original tribunal. The nature and the elaboration of the reasons necessarily depend upon the facts of each case. In the present case, neither the State Government's nor the Central Government's order discloses the reasons for rejecting the application of the appellant. In the circumstances the Central Government's order is vitiated, as it does not disclose any reasons for rejecting the revision application of the appellant'.

Likewise in the other case reported in AIR 1967 SC 1606, we have the following observations on page 1610 in paragraph 9:--

'Let us now examine the question as to whether it was incumbent on the Central Government to give any reasons for its decision on review. It was argued that the very exercise of judicial or quasi-judicial powers in the case of a tribunal entailed upon it an obligation to give reasons for arriving at a decision for or against a party. The decisions of tribunal in India are subject to the supervisory powers of the High Courts under Article 227 of the Constitution and of appellate powers of this Court under Article 136. It goes without saying that both the High Court and this Court are placed under a great disadvantage if no reasons are given and the revision is dismissed curtly by the use of the single words 'rejected', or, 'dismissed' In such a case, this Court can probably only exercise its appellate jurisdiction satisfactorily by examining the entire records of the case and after giving a hearing come to its conclusion on the merits of the appeal. This will certainly be a very unsatisfactory method of dealing with the appeal. Ordinarily, in a case like this, if the State Government gives sufficient reasons for accepting the application of one party and rejecting that of the others, as it must, and the Central Government adopts the reasoning of the State Government, this Court may proceed to examine whether the reasons given are sufficient for the purpose of upholding the decision. But, when the reasons given in the order of the State Government are scrappy or nebulous and the Central Government makes no attempt to clarify the same, this Court, in appeal may have to examine the case de novo without anybody being the wiser for the review by the Central Government. If the State Government gives a number of reasons some of which are good and some are not, and the Central Government merely endorses the order of the State Government without specifying those reasons which according to it are sufficient to uphold the order of the State Government, this Court, in appeal, may find it difficult to ascertain which are the grounds which weighed with the Central Government in upholding the order of the State Government. In such circumstances, what is known as a 'speaking order' is called for'.

In the face of the legal position laid down by their Lordships of the Supreme Court in the two cases referred to above it would now be too late to contend that an

administrative tribunal, while acting quasi-judicially, is not required to give reasons. The correct legal position appears to be that in the very nature of its function a quasi-judicial tribunal or an administrative tribunal acting quasi-judicially has to give reasons for its findings though of course the nature and the elaboration of the reasons must necessarily depend on the facts of each case.

7. As far as the present case is concerned, it stands on a much higher footing. As already indicated the procedure prescribed by Rule 1716 which the punishing authority had to follow in the instant case itself requires that the authority has not only to pass the orders on the case but has also to give reasons for the orders. That the punishing authority in the instant case failed to comply with this requirement is amply clear from the order Annexure 4. That the petitioner attacked the order Annexure 4 in appeal on that score is amply clear from the memo of appeal, Annexure 5. In these circumstances it was the bounded duty of the appellate authority having regard to the requirement of Rule 1731 which the appellate authority had to observe in the instant case, to quash the order of punishment for the simple reason that it came to be passed without reasons being mentioned for the same and to direct the punishing authority to dispose of the matter afresh in accordance with Rule 1716, in case the appellate authority thought, having regard to all the facts of the case, that it was necessary to pursue the matter any further. The very fact that the appellate authority did nothing of the sort but only passed a cryptic order 'I have gone through his appeal. The appeal is rejected' shows that the appellate authority failed to consider the points enumerated in Clauses (a), (b) and (c) of Sub-rule (2) of Rule 1731. On that score itself the petition must succeed, apart from the fact as to whether or not on the very language of Rule 1731 the appellate authority is bound to give reasons for its decision. We are of opinion that even though Rule 1731 does not provide in express terms for the reasons being given just as Rule 1716 (2) provides in express terms, the same appears to be necessarily implied in the language of Rule 1731. The very requirement that the appellate authority is to consider whether the finding recorded by the punishing authority is justified shows that the appellate authority has to appraise the evidence for itself in order to confirm or reverse the findings recorded by the punishing authority. That necessarily implies the giving of reasons. In our view there can be no sufficient compliance with the requirements

of Rule 1731 (2) unless reasons have been given. So in any view of the matter the inevitable conclusion is that on the facts of the present case the order passed in appeal stands vitiated

8. In the end we allow the petition with costs and quash the appellate order. Annexure 6, with the direction that the appeal shall be disposed of a fresh according to law in the light of the observations made in the body of the judgment.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com