

Ramesh Panwar Vs. The Union of India and Ors

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Court : Delhi

Decided On : Mar-20-2015

Judge : Kailash Gambhir

Appellant : Ramesh Panwar

Respondent : The Union of India and Ors

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 2673/2015 & CM APPL. No.4777/2015 RAMESH PANWAR Through Petitioner Mr. Lalta Prasad, Advocate versus THE UNION OF INDIA & ORS Respondents Through Ms. Archana Gaur, Advocate AND + W.P.(C) 2719/2015 & CM APPL. No.4882/2015 MAHESH KUMAR BORASIA Petitioner Through Mr. Lalta Prasad, Advocate versus THE UNION OF INDIA & ORS Respondents Through Ms. Archana Gaur, Advocate CORAM: HON'BLE MR. JUSTICE KAILASH GAMBHIR HON'BLE MR. JUSTICE I.S.MEHTA %

ORDER

2003.2015 KAILASH GAMBHIR, J.

(ORAL) CM APPL. No.4777/2015 (Exemption) in W.P.(C) 2673/2015 CM APPL. No.4882/2015 (Exemption) in W.P.(C) 2719/2015 Exemption allowed subject to just exceptions. Applications stand disposed of. W.P.(C) 2673/2015 W.P.(C) 2719/2015 These Writ Petitions filed under Article 226 of the Constitution of India

question the tenability of the common order dated 18.03.2014 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the learned Tribunal) whereby the learned Tribunal dismissed the Original Applications (in short OAs) No.3361/2012 and 3362/2012 respectively, preferred by these petitioners. Assailing the legality and correctness of the said order, Mr. Lalta Prasad, the learned counsel for the petitioners submits that the petitioners were not given a reasonable opportunity to address arguments in support of OAs preferred by them and the learned Tribunal ignored the mandate of Rule 15(i) of CAT (Procedure) Rules, 1987. The learned counsel also submits that the learned Tribunal failed to appreciate the fact that the Disciplinary Authority failed to give any reasons before accepting the findings given by the Enquiry Authority and also at the time of passing the order of punishment. The contention raised by the petitioners is that the order passed by the Disciplinary Authority is a non-speaking and nonreasoned order, and therefore, the same deserves to be set aside. The learned counsel further argued that the penalty awarded by the Disciplinary Authority to the petitioners is shockingly disproportionate as the same does not commensurate with the gravity of offence proved against them. We have heard the learned counsel for the petitioners at considerable length and given our conscious consideration to the arguments advanced by him. In so far as the denial of opportunity of being heard to the learned counsel for the petitioners before the learned Tribunal is concerned, the fault lies on the part of the petitioners as they failed to ensure the presence of their counsel at least on three dates when the said matters were fixed for arguments before the learned Tribunal, therefore, no grievance can be raised by the petitioners to this effect. With regard to the plea raised by the learned counsel for the petitioners that the learned Tribunal failed to follow the mandate of Rule 15 (i) of the CAT (Procedure) Rules, 1987, the argument cannot sustain as the learned Tribunal has considered the matrix of issues raised by the petitioners in their respective OAs and passed a detailed order on proper analysis of the facts and the legal position. The other contention raised by the learned counsel for the petitioners is that the order passed by the Disciplinary Authority is a nonspeaking and non-reasoned order, here also the plea is devoid of any force as the learned Tribunal has referred to the decision of the Supreme Court in the case of G.M (Personnel Wing), Canara Bank and Anr. V.

Sri M.Raja Rao, 2003 (1) SC SLJ189whereby the Honble Supreme Court took a view that the Disciplinary Authority need not record separate reasons where he accepts the report of the Enquiry Authority. The Supreme Court in the said judgment clearly held that when the Disciplinary Authority agrees with the finding and the conclusion of the Enquiry Authority, it is not necessary in law to give any detailed reasons as to why he intends to agree with the finding of the Enquiry Authority. The relevant paras of the said judgment are as under:

4. Having regard to the contentions raised by the counsel for both sides and having examined the impugned judgment of the Division Bench of Karnataka High Court, we have no hesitation to come to the conclusion that the High Court committed serious error in interfering with an order of punishment inflicted on a delinquent-employee on dereliction of duties and grave charges against him. The order of the Disciplinary Authority unequivocally indicates that he has gone into the findings of the Enquiring Authority and agreed with the same. When a Disciplinary Authority agrees with the findings and conclusions of the Enquiring Authority, it is not necessary in law to give any detailed reasons as to why he intends to agree with the findings of the Enquiring Authority. It is of course true that in the matter of award of punishing if Disciplinary. Authority considers materials other than the materials which had been produced before the EO then the delinquent must be given a notice thereof or else the conclusions of the Disciplinary Authority would get vitiated. But, for mere expression used in "other relevant factors" in the order of the Disciplinary Authority, we are unable to persuade ourselves to agree with the submissions of Mr. Rama Jois that the Disciplinary Authority did consider any extraneous materials which had not been produced before Enquiring Authority. In that view of the matter, we see no infirmity with the impugned order of the Disciplinary Authority inflicting the punishment of the termination of service.

5. So far as the order of the Appellate Authority is concerned, it is undoubtedly true that as provided in the Regulation, the Appellate Authority is required to pass a reasoned order. The question further arises for consideration is even though the order may be a reasoned order, can it be held to have suffered from any infirmity because all the contentions raised as alleged by the counsel for the delinquent, have not been dealt with?.

6. On examining the order of the Appellate Authority, we are of the considered opinion that the Appellate Authority not only afforded opportunity of hearing to the delinquent, but also considered the contentions raised and then taking a totality of the entire circumstances agreed with the order of the Disciplinary Authority and dismissed the appeal. In that view of the matter, we do not think that any infirmity has been committed by the Appellate Authority in not giving detailed reasons on the contentions raised by the delinquent. In this view of the matter, the Division Bench also committed error in holding that the Appellate Authority committed a serious infirmity in dismissal of the appeal in question. Since both the conclusions of the Division Bench are wholly unsustainable in law, we set aside the impugned judgment of the Division Bench and hold that the writ petition filed before the High Court would stand dismissed. This appeal accordingly stands allowed with no order as to costs.

We need not re-appreciate and re-evaluate the facts which were duly proved against the petitioners during the course of the enquiry and it is neither the case of the petitioners that they were not given proper opportunity to participate in the enquiry proceeding, nor is it their case that they were not afforded an opportunity of being heard by the Disciplinary Authority or by the Appellate Authority and in this background, we find no tangible reasons to interfere with the impugned order passed by the learned Tribunal. The learned counsel for the petitioners has also not raised any convincing plea to point out as to how the punishment awarded to the petitioners can be held to be shockingly disproportionate looking into the gravity of the charge proved against them in terms of the articles of the charge which we need not reiterate. There is not merit in the present Writ Petitions and the same are hereby dismissed. KAILASH GAMBHIR, J.

I.S.MEHTA, J.

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