

A.K. Sahu Vs. M.P. State Agro Industries Development Corporation and anr.

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Court : Madhya Pradesh

Decided On : Aug-13-2004

Reported in : 2004(4)MPHT252; 2004(3)MPLJ589

Judge : S.P. Khare, J.

Acts : Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 - Rule 27 and 27(2); [Constitution of India](#) - Articles 226 and 227

Appeal No. : Writ Petition No. 6978/2002

Appellant : A.K. Sahu

Respondent : M.P. State Agro Industries Development Corporation and anr.

Advocate for Def. : Rajesh Dubey, Adv.

Advocate for Pet/Ap. : Greeshm Jain, Adv.

Judgement :

ORDER

S.P. Khare, J.

1. This is a writ petition under Articles 226 and 227 of the [Constitution of India](#) challenging order dated 24-10-2001 (Annexure P-1) of the Managing Director of the M.P. State Agro Industries Development Corporation by which the petitioner

has been dismissed from service. He has also challenged order dated 6-11-2002 (Annexure P-2) by which his appeal under Rule 27 of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 (hereinafter to be referred to as 'the Rules') has been dismissed.

2. Arguments of both the sides heard. Respondent No. 2 Chairman, M.P. Stale Agro Industries Development Corporation is the Appellate Authority. The appeal has been dismissed by order dated 6-11-2002 (Annexure P-2) without recording any reasons. Rule 27 (2) of the Rules specifically provides that in the case of an appeal against an order imposing any of the penalties specified in Rule 10, the Appellate Authority shall consider-

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

(b) whether the findings of the disciplinary authority are warranted by the evidence on the records; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, and pass orders--

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case.

3. It has been consistently held by this Court in several decisions that the Appellate Authority must pass a speaking order indicating that the points raised by the appellant have been considered. It is well settled that the Appellate Authority functions as a quasi-judicial authority and, therefore, it should give reasons in support of the order disposing of the appeal. This was the law laid down long back by this Court while dealing with Rule 27 (2) in *Hiralal Pandey v. State of M.P. and Anr.*, 1977 MPWN 260. In that case the Appellate Authority was directed to decide the appeal afresh. The Supreme Court has also held in *Ram Chander v. Union of*

India, AIR 1986 SC 1173, that the Appellate Authority discharging quasi-judicial functions in accordance with natural justice must give reasons for its decision. The order disposing of the appeal should indicate the application of mind on the points enumerated in Rule 27 (2).

4. In view of above legal position, the order of the Appellate Authority dated. 6-11-2002 (Annexure P-2) is quashed. Respondent No. 2 Chairman of the M.P. State Agro Industries Development Corporation is directed to decide the appeal of the petitioner afresh keeping in view the requirements of Rule 27 (2) of the Rules and observations made above.

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