

S. Saran Vs. the Chairman and Managing Director (Cmd) National Aviation Company of India Ltd. (Nacil) Air India and the Executive Director (Operations and Training) Nacil

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Court : Chennai

Decided On : Oct-14-2009

Reported in : (2010)ILLJ552Mad

Judge : P. Jyothimani, J.

Acts : [Industrial Disputes Act, 1947](#) - Sections 2; [Constitution of India](#) - Article 226

Appeal No. : W.P. No. 14449 of 2009

Appellant : S. Saran

Respondent : The Chairman and Managing Director (Cmd) National Aviation Company of India Ltd. (Nacil) Air India

Advocate for Def. : N.G.R. Prasad, Adv.

Advocate for Pet/Ap. : R. Subramanian, Adv.

Judgement :

ORDER

P. Jyothimani, J.

1. The petitioner joined under the respondents as Trainee Pilot. As per the conditions of appointment, he was required to undergo training and assessment as a Trainee Pilot at Central Training Establishment, Secunderabad with effect from 1.3.2007. As per the terms of appointment, he has to execute Agreements and Surety Bonds and after completion of training and obtaining necessary endorsement and instrument rating from the Director General of Civil Aviation (for brevity, 'the DGCA') he would be appointed as Second Officer on fixed pay of Rs. 770/- per month plus other allowances and subsequently, on completion of release checks, his appointment will be as First Officer in the pay scale of Rs. 6200-175-6550-200-7550-225-7775-250-8025/-. The petitioner was asked to furnish bank guarantee from a Nationalised Bank for a sum of Rs. 7.5 Lakhs as security deposit which will be invoked in case of any breach of conditions of appointment.

2. After completion of his training and obtaining endorsement and instrument rating from the DGCA, the petitioner was designated as Second Officer and he was to undergo three release checks for appointment as First Officer. He underwent two release checks with satisfactory report. However, the petitioner was not permitted to be designated as a First Officer and he was not given flying duties.

3. The second respondent issued a show cause notice dated 5/16.12.2008 alleging certain misconduct. The alleged misconduct relates to the petitioner's appearance in ATPL Examination, for which he has obtained SOD tickets and that he had allegedly used one of those tickets for travel of one Shanmugiah and in the application dated 18.12.2006 submitted by him for the post of Trainee Pilot, he has mentioned the educational qualification as pass in 10 plus 2 and suppressed the completion of undergraduate course in Dentistry. The show cause notice stated to have been issued as per Clause 6(a) of the appointment order, relates to abandoning the trainee or termination of training by the Company, in which event the petitioner is liable to return the loan amount with interest at the rate of 18% per annum and the bank guarantee was also threatened to be invoked.

4. It is his case that the SOD tickets were not valid as the travel date has expired and by oversight the SOD ticket has been given instead of the purchased ticket

and boarding pass has been issued by mistake and his uncle has not travelled. Regarding the next charge of suppression of undergraduate course in Dentistry, it is his case that he has not completed his undergraduate course in Dentistry and therefore, he has mentioned pass in Plus Two which is the requisite qualification for the post.

5. It is the case of the petitioner that in spite of giving the said explanation, without conducting any enquiry, the second respondent has issued the impugned order on 16/19.2.2009 imposing punishment of termination. Against the said order, appeal was filed before the first respondent on 25.2.2009 and the first respondent, by order dated 23.5.2009, has confirmed the order of the second respondent.

6. The said impugned orders are challenged on various grounds, including

(a) that the first respondent-Appellate Authority should have given reasons for passing the order while confirming the order of the second respondent;

(b) that the first respondent has failed to note that the second respondent while passing the original impugned order has not conducted any enquiry;

(c) that the respondents have not considered that the petitioner has underwent training from 1.3.2007 and completed the same and he was shown as Second Officer in the Route Check report;

(d) that the conduct of the second respondent in not permitting the petitioner to undergo third check and not giving flying duties in spite of the communication from the Vigilance Authority is malafide;

(e) that Clause 10(a) of the appointment order applies only to trainees and the petitioner has ceased to be a trainee once he had obtained endorsement and instrument rating from DGCA;

(f) that the explanation has not been considered by the second respondent in the proper perspective;

(g) that the second respondent has erred in holding that SOD tickets were obtained for ATPL examination overlooking the fact that the travel date has

already expired and the ticket was not valid; and

(h) that the impugned orders are malafide and the termination cannot be said to be a termination simpliciter.

7.1. It is the case of the respondents in the counter affidavit that the petitioner was enrolled as a Trainee Pilot on 14.2.2007 and his training started on 1.3.2007. As per the terms of appointment, especially Clause 10(a), the training and appointment programme can be terminated by the respondents without any notice or at any time for unsatisfactory progress or behaviour or due to any act of omission or commission. It is also stated that his recruitment was at Delhi and training was at Hyderabad. He sought permission to attend the examination at Delhi for which he was eligible for an SOD ticket from Hyderabad 'Delhi' Hyderabad. He requested on 21.4.2008 to travel via Chennai for personal reasons and it was in those circumstances the said request was conceded.

7.2. The petitioner got SOD pass at Hyderabad for his travel from Hyderabad to Chennai, Chennai to Delhi and back from Delhi to Hyderabad. It is the case of the respondents that suppressing the same he has got another SOD pass at Chennai for his travel from Chennai to Delhi and he has misused one of his SOD passes for his father's friend Shanmugiah. When the petitioner and said Shanmugiah were about to board the flight, the Traffic Officer noticed two boarding passes in the same name and therefore, a show cause notice was issued on 16.12.2008 and as his explanation was found not satisfactory, his services were terminated by an order dated 19.2.2009 invoking Clause 10(a) of the conditions of appointment. The appeal filed before the first respondent was also rejected.

7.3. According to the respondents, the termination order has been passed at Hyderabad. The Appellate Authority has rejected the appeal at Mumbai and no part of cause of action arose at Chennai/Tamil Nadu and therefore, this Court has no jurisdiction and the writ petition is not maintainable.

7.4. It is the further case of the respondents that even if the petitioner is entitled to any relief, the same is only under the [Industrial Disputes Act, 1947](#), since the petitioner is a workman under Section 2(s) of the [Industrial Disputes Act, 1947](#) and

therefore, the writ petition as such is not maintainable.

7.5. The other contentions raised by the petitioner are denied. It is the specific case of the respondents that no domestic enquiry is necessary and the impugned order was passed after affording reasonable opportunity to the petitioner and following the principles of natural justice.

8.1. Mr. R. Subramanian, learned Counsel appearing for the petitioner would submit that the impugned orders, even though passed at Hyderabad and Mumbai, were served on the petitioner at Tamil Nadu and therefore, a part of the cause of action has arisen at Chennai and it cannot be said that the writ petition is not maintainable.

8.2. On the merits of the case, it is his contention that the Original Authority has not conducted any enquiry and passed orders after the issuance of show cause notice and submission of his explanation and according to him, even as per Clause 10(a) of the conditions of appointment, when show cause notice is issued, it is incumbent on the part of the respondents to conduct an enquiry since the order of punishment has resulted in a stigma in the career of the petitioner.

8.3. It is also his submission that when once the petitioner has completed his training programme, he becomes a person eligible for appointment as an employee and therefore, his services cannot be dispensed with without any notice or enquiry.

8.4. According to him, Clause 10(a) of the conditions of appointment would apply only as long as the petitioner remains as a trainee. It is also his submission that the authorities performing quasi-judicial functions are expected to act by giving opportunity. He would rely upon the judgment of the Supreme Court in *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank v. Jagadish Sharan Varshney and Ors.* : [2009] 4 SCC 240.

9.1. Per contra, it is the contention of Mr. N.G.R. Prasad, learned Counsel appearing for the respondents that as per the terms of appointment, as a Trainee Pilot, the petitioner is not entitled to any opportunity. Even assuming that the

impugned order of termination violates the principles of natural justice, the remedy available to the petitioner is only before the Labour Court.

9.2. It is his submission that, even if the training of the petitioner has been completed, unless the petitioner goes to the second stage, the petitioner would remain as a trainee and therefore, the clauses in the appointment order would apply.

9.3. It is his case that serious charge has been levelled against the petitioner, viz., that the petitioner having got two SOD tickets in his name has allowed another person to travel and two boarding passes have been issued in the name of the petitioner, and that the petitioner is responsible for the grave charge, especially when he still remains a Trainee Pilot and such misconduct is not pardonable.

9.4. It is his submission that if enquiry is required, it is for the petitioner to approach the Labour Court. In this regard, he would rely upon the judgment of the Karnataka High Court in *Hariba v. K.S.R.T.C.* : 1983 [II] LLJ 76. He would also rely upon the judgment reported in 2004 [5] CTC 510. According to him, the Labour Court will be the proper authority to decide about the issue involved, relying upon the decision in *The United Planters Association of Southern India v. K.G. Sangameswaran and Anr.* : 1997 [I] LLJ 1104.

10. I have heard the learned Counsel for the petitioner and the respondents and perused the records.

11.1. The petitioner has applied for the post of Trainee Pilot under the respondents on 26.2.2007 and after undergoing written test and interview, the petitioner was enrolled as a Trainee Pilot on 14.2.2007 subject to various conditions contained therein. As per Clause 3 of the appointment order, the petitioner was required to undergo training and assessment as Trainee Pilot at Central Training Establishment, Secunderabad which will commence from 1.3.2007 and he was required to complete the training formalities including execution of Agreements and Surety Bonds before the commencement of training and it is stated that after the completion of training, he would be posted anywhere in India.

11.2. As per the Clause 4 of the appointment order, the petitioner will be eligible to receive stipend of Rs. 20,000/- per month during the course of training. As per the terms of appointment, especially Clause 5, on successful completion of his training and obtaining necessary endorsement and instrument rating from DGCA, the petitioner will be appointed as Second Officer on a fixed pay of Rs. 770/- per month with allowances and subsequently, on completion of release checks, he will be appointed as First Officer in the pay scale stated therein. Clause 5 of the appointment order is as follows:

5. On successful completion of your training and obtaining necessary endorsement and Instrument Rating from the DGCA, you will be appointed as Second Officer on fixed pay of Rs. 770/- per month plus Variable Dearness Allowance, as applicable and subsequently on completion of release checks you will be appointed as First Officer in the pay scale of Rs. 6200-175-6550-200-7550-225-7775-250-8025.

11.3. Under Clause 10(a) of the appointment order, which is relied upon by both the petitioner and the respondents, it is stated that the training and appointment programme may be terminated without any notice. Clause 10(a) is as follows:

10. (a) The training and appointment programme as set out herein above may be terminated forthwith without any notice, or at any time by Indian Airlines Ltd., for reasons including your unsatisfactory progress or behaviour or due to any act of omission or commission on your part which in the estimation of Indian Airlines Ltd., amounts to a misconduct.

(b) In such an event the trainees will be required to reimburse to Indian Airlines Ltd. the amount as specified in the agreements and the Surety Bonds.

11.4. By virtue of the term under Clause 10(a) of the appointment order, it is clear that the termination as stated therein can be effected either during the period of training or during the appointment programme, which as per Clause 5 includes the appointment as Second Officer.

11.5. It is seen that, after completion of the training programme, necessary endorsement from DGCA was effected on 16.6.2008 and even in the pay slip of the petitioner issued in December, 2008, his designation is stated as a Trainee Pilot. It is true that as per Clause 5 of the appointment order, on successful completion of the training and on endorsement from DGCA, the petitioner was eligible to be appointed as Second Officer. But, on fact, it is seen that till the date of issue of show cause notice, the petitioner was not appointed as Second Officer even though he is shown as SO (Second Officer) in Route Check Report. In any event, for the purpose of construction of Clause 10(a) of the appointment order, it is not of much importance as to whether the petitioner remained to be a Trainee Pilot or he has been included in the subsequent appointment programme, since Clause 10(a), as it is elicited above, applies not only during the training, but also during the appointment programme, which includes the subsequent appointment as Second Officer or First Officer.

11.6. In the show cause notice issued against the petitioner two charges were levelled against him which are as follows:

1. That you had traveled from Chennai to Delhi on a Supernumerary ticket by flight IC 802 on 27.7.2008 to appear for ALTP examination. In this connection it was learnt that you had obtained two SOD tickets separately from the O/o.General Manager (Ops.), CTE, Hyderabad and also from the O/o. General Manager (Ops.), Chennai citing the same reason of appearing for ALTP examination at Delhi. You had fraudulently used one of the two SOD tickets bearing No. 058/2300 410 520 for the travel of Shri Shanmugaiah, a friend of your father, by flight IC 802 of 27.7.2007 from Chennai to Delhi. The above fraud played by you was noticed by Shri M. Arvind, Traffic Officer at the time of boarding of Shri Shanmugaiah the flight at Chennai Airport. It was also revealed that the said individual was also in possession of a passenger ticket bearing No. 058/2300 700 792 issued in his name in open status but he made use of the boarding pass issued in your name for his travel at your instance instead of using his ticket. Thus it was clearly established that you had played fraud by misusing the staff ticket issued to you for travel on duty for taking the above named person as stated above, which amounts to a serious misconduct warranting severe action against you.

2. That it is further noticed from the application dated 18.12.2006 submitted by you for the post of Trainee Pilot that you had mentioned your educational qualification as having passed 10 + 2 course. You have declared your qualification as such in the application for employment dated 26.2.2006 and also in the attestation form dated 26.2.2006. On an enquiry it is revealed that you had completed the undergraduate course in Dentistry but you had suppressed the said information and not mentioned the said qualification in the above application forms and the attestation form though there is warning in the attestation form reading as under:

WARNING -

The furnishing of false information or suppression of any factual information in the attestation form would be a disqualification and is likely to render the candidate unfit for employment in Indian Airlines Ltd.

If the fact that the false information has been furnished or that there has been suppression of any factual information in the attestation form comes to notice at any time during the service of a person, his services would be liable to be terminated.,

and the petitioner was directed to give his reply within seven days.

11.7. In the show cause notice, a reference has also been made about Clause 6(a) of the appointment order by which for violation of Service Agreement, the petitioner would be liable to refund the balance loan amount with interest at the rate of 18%, apart from referring the clause regarding invoking of bank guarantee.

11.8. The petitioner, who has requested for certain documents in his communication dated 23.12.2008, has given a detailed reply. In respect of the second charge that he has not mentioned about the undergraduate course in Dentistry, he has stated that the required educational qualification for the post of Trainee Pilot was 10 + 2 and he has also stated that he has not completed undergraduate course in Dentistry and therefore, he has not stated about it. But, the more serious charge, as it is stated by the respondents, is about the issuance of SOD tickets, namely while travelling from Chennai to Delhi, apart from the SOD

ticket which has been issued to him from Hyderabad, he has also obtained another SOD ticket at Chennai and one of the tickets were allowed to be used by his relative while he has used the other SOD ticket and in fact, there were two boarding passes in the same name of the petitioner. The reply in this regard is that by mistake the expired SOD ticket has been shown based on which the boarding pass has been issued and it is also stated that his uncle has not travelled by SOD ticket and he has purchased a ticket in his name and there has been a confusion by the mixing of the tickets which is accidental.

11.9. The second respondent has issued second show cause notice dated 16.1.2009 not being satisfied by the reply given to the first show cause notice and directed the petitioner to give his further explanation by furnishing various documents required by the petitioner in his communication dated 23.12.2008. Thereafter, the petitioner has given his explanation to the second show cause notice on 5.2.2009 reiterating the same explanation and that was followed by the impugned order of termination dated 16/19.2.2009 referring to Clause 10(a) of conditions of appointment. The appeal filed against the said termination order before the first respondent dated 25.2.2009 came to be rejected on the basis that the petitioner has failed to prove his innocence and therefore, the appeal is found to be void of any substance.

12. The contention of the learned Counsel for the petitioner that the petitioner has stated that he has completed training and endorsement has also been obtained from the DGCA and he has been designated as a Second Officer has not been denied by the respondents in the counter affidavit. Even though in the show cause notice issued on 5/16.12.2008 the petitioner has been stated as a Trainee Pilot, it is seen in the Route Check Reports dated 20.7.2008 and 27.7.2008 issued by the respondents that the petitioner's status has been mentioned as SO (Second Officer). But, as stated above, whether the petitioner is a Trainee Pilot or Second Officer, the same in the context of the present case is relevant only as per Clause 10(a) of the appointment order which states about the training and appointment programme and therefore, it cannot be said that after the completion of training and even if the petitioner is posted as Second Officer Clause 10(a) would not apply. The appointment programme after training forms part of the appointment

order dated 14.2.2007.

13. In respect of the service conditions either as a Trainee Pilot or thereafter as Second Officer or First Officer, there are no rules placed before this Court to show that the domestic enquiry should be conducted in a particular manner or the Appellate Authority should follow a procedure for the purpose of disposing of the appeal. If really it is the case of the petitioner that domestic enquiry should be conducted, in which case the petitioner should be given an opportunity to prove his case by an elaborate enquiry, certainly the petitioner is entitled to approach the Labour Court. But, in the present case, the petitioner was given an opportunity to give explanation on two occasions. In the explanation submitted by the petitioner he has never asked for any further enquiry, but in respect of a serious charge, viz., the first charge, he has stated that there has been a mistake in mixing of SOD ticket which has expired by lapse of time. In the absence of such specific request for personal enquiry from the petitioner and in the absence of any rule or regulation relating to the respondent establishment compelling to have the domestic enquiry, it cannot be said as if the principles of natural justice have been violated.

14. On the seriousness of the allegations made against the petitioner and the consequences of the impugned order of termination, there is no difficulty to conclude that the termination is not one of simpliciter and it is based on a positive finding against the petitioner in respect of a grave charge resulting in certain consequences causing a stigma.

15. As correctly submitted by Mr. N.G.R. Prasad, learned Counsel appearing for the respondents, law is well settled that the Industrial Court is a more competent forum which can decide the issues which require elaborate discussion regarding the disciplinary enquiry, etc., as it is held by Rama Jois, J. (as he then was) of the Karnataka High Court in *Hariba v. K.S.R.T.C.* : 1983 [II] LLJ 76 wherein it was held as follows:

8. As far as the submissions made by the learned Counsel for the Corporation that the petitioner is a workman and the Corporation is an industry, and therefore he could raise an industrial dispute, is concerned, there is not and cannot be any

controversy. Further, as regards the wide powers of, and the procedure required to be followed by, the Industrial Court is concerned, also there can be no doubt that even if there has been any procedural defect in the disciplinary inquiry held by the Corporation, in that, there has been violation of the rules of procedure or principles of natural justice in the holding of the disciplinary inquiry against a workman, the Corporation has the right to prove the charge before the Industrial Court and can sustain the order of dismissal. This position is well settled by the various decisions of the Supreme Court, on which the learned Counsel for the Corporation relied, quoted earlier. The substance of the ratio of all the decisions of the Supreme Court as to the procedure required to be followed by the Industrial Court may be summarised as follows:

(1) The Industrial Court should, whenever there is an objection that the disciplinary inquiry held, was in violation of the prescribed rules of procedure or rules of natural justice, decide the validity of the inquiry as a preliminary issue.

(2) Even if the inquiry held is found to be invalid the Tribunal cannot set aside the order of dismissal straight way, if the management offers to prove the charge, in which event, the Industrial Court is bound to record evidence of both the parties and give its findings.

(3) If the finding is that the charge levelled against the workman is proved, the order of dismissal or removal, as the case may be has to be upheld. If the finding is that the charge is not proved, the penalty has to be set aside.

(4) Even if the finding is that the charge is proved, the Tribunal can substitute the order of dismissal or removal by a lesser penalty.

10. Therefore, having regard to the powers of and the procedure required to be followed by, an Industrial Court, as the Corporation has the right to adduce evidence before the Industrial Court in support of the charge upon a finding that the disciplinary inquiry held suffered from procedural defects, the entertaining of a writ petition under Article 226 of the Constitution and quashing of the final order on

grounds of procedural defect certainly would cause serious prejudice to the Corporation, in that it would be deprived of the valuable opportunity of proving the charge which it has if the matter were to be taken up before the Industrial Court. The consideration, namely, that the opposite party should not be denied of a valuable defence, is a good consideration, for not entertaining a petition under Article 226 of the Constitution as observed by the Supreme Court in *State of M.P. v. Bhailal Bhai* : Air 1964 SC 1006.

16. The reliance placed by the learned Counsel for the petitioner on the judgment in *Nehru Yuva Kendra Sangathan v. Mehbub Alam Laskar* : [2008] 2 SCC 479 relates to a case where enquiry was conducted behind the back of the employee, on the basis of which the probation of the employee was terminated and it was in those circumstances the Supreme Court held that 'Mere holding of a preliminary enquiry where explanation is called for from the employee, if followed by an innocuous order of discharge, may not be held to be punitive in nature but not when it is founded on a finding of misconduct'. The facts of the present case cannot be related to the facts on which the above judgment was delivered.

17. Again the judgment of the Supreme Court in *R. Sulochana Devi v. D.M. Sujatha and Ors.* : 2004 [5] CTC 108 relates to a case where an order was passed without notice to the party and in those circumstances it was held to be no order in the eye of law. Again, the said judgment has no application to the facts of the case wherein the impugned order was not passed either behind the back of the petitioner or without giving opportunity to the petitioner, even though as per Clause 10(a) of the appointment order, which has been accepted by the petitioner, there is no necessity to even hear the petitioner.

18. In *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank v. Jagadish Sharan Varshney and Ors.* : [2009] 4 SCC 240, while deciding about the procedure to be followed by the Appellate Authority, it was held that even though generally when the Appellate Authority affirms the order of the Original Authority no elaborate reason is required, in the case of reversal it is required, nevertheless, the affirmation must contain certain reasons to show that there has been application of mind by the Appellate Authority even if the reason is brief. By

narrating various judgments on the issue, the Supreme Court has held as follows:

5. In our opinion, an order of affirmation need not contain as elaborate reasons as an order of reversal, but that does not mean that the order of affirmation need not contain any reasons whatsoever. In fact, the said decision in *Prabhu Dayal Grover's case* : [1995] 6 SCC 279 has itself stated that the appellate order should disclose application of mind. Whether there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority. Hence, we cannot accept the proposition that an order of affirmation need not contain any reasons at all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority.

6. The view we are taking was also taken by this Court in *Divisional Forest Officer v. Madhusudhan Roa* : [2008] 3 SCC 469, and in *Madhya Pradesh Industries Ltd. v. Union of India* : AIR 1966 SC 671, *Siemens Engineering & . v. Union of India* : [1976] 2 SCC 981, etc.

7. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

8. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of *S.N. Mukherjee v. Union of India* : [1990] 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

9. No doubt, in *S.N. Mukherjee's case* (supra), it has been observed that:

36. ...The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge. The above observation, in our opinion,

really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority.

10. For the same reason, the decision of this Court in *State of Madras v. A.R. Srinivasan* : AIR 1966 SC 1827 has also to be understood as explained by us above.

19. While it is true that on the factual matrix the petitioner is otherwise entitled to approach the Labour Court for redressal of his grievance, which is a very appropriate forum, since it is Industrial Tribunals which are more impartial bodies to decide elaborately on various issues including the violation of principles of natural justice, which right the petitioner can avail even as on date, and since in the present case the first respondent, being the Appellate Authority, has entertained the appeal, we have to see as to whether the Appellate Authority has performed its function in a proper manner.

20. A reference to the order of the Appellate Authority in this case, namely the first respondent, shows that except stating that on a perusal of records sufficient opportunity has been given to the petitioner by the second respondent - Original Authority, there is absolutely nothing to construe that the Appellate Authority has applied its mind at least in respect of the materials regarding the charges framed against the petitioner. A mere brief narration that the Original Authority has followed the principles of natural justice and proceeded with the proposed action of termination, as it is seen in the impugned order, is not sufficient to show that the first respondent has applied its mind. Ultimately, the Appellate Authority has passed the following order:

4. Your appeal dated February 25, 2009 is found to be void of any substance. Further, the undersigned could not find any element of violation of principles of natural justice in the investigation process, as alleged by you in your appeal. I am fully convinced that there are sufficient reasons for invoking Clause No. 10(A) of the enrollment letter for the purpose of termination of your training.

5. I, therefore, do not feel any need to review the punishment of termination awarded by the Competent Authority and therefore hereby dismiss your Appeal dated February 25, 2009.

21. By applying the yardstick propounded by the Hon'ble Apex Court in the recent judgment in *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank v. Jagadish Sharan Varshney and Ors.* : [2009] 4 SCC 240, when once the first respondent being the Appellate Authority has entertained the appeal, there must be some material to show that the first respondent has applied its mind to the issue involved in this case, especially when serious charges have been levelled against the petitioner resulting in civil consequences causing stigma on the service conditions of the petitioner. In the absence of any such reason, I am of the view that the order of the Appellate Authority has to be set aside and the matter has to be remanded to the first respondent.

Accordingly, the order of the first respondent - Appellate Authority is set aside and the matter is remanded to the first respondent with a direction to consider the appeal and decide the matter on merit and pass appropriate orders expeditiously. This writ petition is partly allowed in the above terms. No costs. Consequently, M.P. Nos. 1 and 2 of 2009 are closed.

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