

Court No. - 33

Case :- WRIT - A No. - 17640 of 2023

Petitioner :- Pankaj Kumar

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- R.K. Mishra

Counsel for Respondent :- C.S.C.,Kaushalendra Nath Singh

Hon'ble J.J. Munir,J.

Heard learned Counsel for the petitioner and Mr. Kaushalendra Nath Singh, learned Counsel for respondent nos. 2 to 5.

A short counter affidavit has been filed by Anil Kumar Jaiswal, Chief Engineer (Distribution), Paschimanchal Vidyut Vitran Nigam Limited, Bulandshahr. This affidavit has been filed in compliance with this Court's order dated 17.10.2023. The material part whereof reads:

"This Court has perused the order dated 23.09.2023 passed by the Chief Engineer, Paschimanchal Vidyut Vitran Nigam Limited, Bulandshahr, which, *prima facie*, is a cryptic and laconic order. All that it says for a reasoning is quoted below:

"उक्त अपील में अपीलकर्ता ने मुख्यतः उक्त दण्ड के सन्दर्भ में 16 बिन्दुओं के माध्यम से अपनी बात रखते हुए न्याय की मांग की है, जिसके प्रतिउत्तर में उक्त नामित समिति के द्वारा दिये गये निष्कर्ष "अपील से सम्बन्धित पत्रावली एवं अपीलकर्ता द्वारा दायर अपील का भली-भांति परीक्षण के उपरांत पाया कि श्री पंकज कुमार द्वारा की गयी अपील में कोई ऐसे साक्ष्य एवं तथ्य संज्ञान में नहीं लाये गये हैं जिसके कारण उनके द्वारा दायर अपील को स्वीकार योग्य माना जाये।

अतः श्री पंकज कुमार कार्यालय सहायक-तृतीय विद्युत वितरण खण्ड- प्रथम, सिकन्द्राबाद, बुलन्दशहर की अपील दिनांक 15.09.2021 में उल्लेखित तथ्यों के सन्दर्भ में जांच समिति द्वारा उपलब्ध आख्या एवं अभिलेखों का सुक्ष्मता पूर्वक परीक्षण एवं अध्ययन करने पर पाया गया कि "अपील दण्ड कम करने हेतु स्वीकार योग्य नहीं पाई गयी है। अतः श्री पंकज कुमार द्वारा प्रस्तुत अपील पर समुचित विचारोपरान्त यह निष्कर्षित किया गया है कि उन्हें दिया गया दण्ड पर्याप्त एवं उचित है। अतः सम्यक विचारोपरान्त श्री पंकज कुमार कार्यालय सहायक-तृतीय विद्युत वितरण खण्ड - प्रथम सिकन्द्राबाद, बुलन्दशहर द्वारा प्रस्तुत अपील दिनांकित 15.03.2021 को एतद्वारा निरस्त किया जाता है।"

Whatever has been said in the appellate order does not carry one word for a reason. It only mentions conclusions bereft of these.

Before any further orders are made, A. J. Jaiswal, Chief Engineer, Paschimanchal Vidyut Vitran Nigam Limited, Bulandshahr is granted 48 hours' time to file an affidavit/counter affidavit in support the order impugned by whatever he wishes to say."

In paragraph no. 3 of the said affidavit, while withdrawing the Appellate Order

dated 23.9.2023, the Chief Engineer has sought liberty from this Court to pass a fresh order. We are of opinion that this liberty ought to be granted.

It is, however, made clear that in passing his fresh order, the Chief Engineer shall be mindful of his duties as an Appellate Authority and the order that he now passes, which shall be passed within one month, must carry reasons for the decision with reference to facts, evidence on record and whatever is urged as grounds before the Appellate Authority. It goes without saying that any question of law, if raised, would also be dealt with by the appellate order.

Subject to above liberty, this writ petition is **disposed of**.

Let this order be communicated to the Chief Engineer (Distribution), Paschimanchal Vidyut Vitran Nigam Limited, Bulandshahr by the Registrar (Compliance).

Order Date :- 19.10.2023
Prashant D.