

enquiry report and asked the explanation whereupon the petitioner filed the explanation.

The Disciplinary Authority passed the order thereby dismissed the petitioner from service. Against that order, the petitioner filed the appeal that also did not find favour with the Appellate Authority as well as the Revisional Authority.

The short point has been raised by the petitioner that when the petitioner received the enquiry report and has been asked to give show cause, he had given a detail show cause but the Disciplinary Authority while considering the show cause, did not discuss defence that he has taken in his show cause, merely has passed the order in mechanical manner. In support of his case, he has relied on judgment reported in 2000 (3) PLJR 64 (Chandradip Sinha vs. the State of Bihar & ors.) where in identical circumstances, the Court has quashed the order of punishment.

The counsel for the Bank has tried to support the order of punishment and has submitted that even the later stage, the petitioner was given the opportunity and that he has availed, in that circumstance, it will not be prudent for the Court to pass any order in favour of the petitioner.

Having considered the rival contentions of the parties, the Enquiry Officer has found certain charge, proved

against the petitioner. The petitioner filed a written brief-cum-show cause but the Disciplinary Authority while passing the impugned order did not discuss even a single point that has been raised in the aforesaid show cause.

The aforesaid judgment has dealt with the aspect of the matter and it is well known that giving a reason is a part of our judicial system so that the Higher Authority can apply his mind and can look into that what was going on in the mind of the decision maker. It will be relevant to place reliance to judgment reported in (2003) 4 SCC 364, para-15 (P.C. Kakkar vs. Chairman and Managing Director, United Commercial Bank and others).

Para 15 “It needs no emphasis that when a Court feels that the punishment is shockingly disproportionate, it must record reasons for coming to such a conclusion. Mere expression that the punishment is shockingly disproportionate would not meet the requirement of law. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engg. Union observed: (All ER p. 1154h) "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dedley) Ltd. v. Crabtree it was observed:

"Failure to give reasons amounts to denial of justice".

Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance. But as noted above, the proceedings commenced in 1981. The employee was placed under suspension from 1983 to 1988 and has superannuated in 2002. Acquittal in the criminal case is not



determinative of the commission of misconduct or otherwise, and it is open to the authorities to proceed with the disciplinary proceedings, notwithstanding acquittal in criminal case. It per se would not entitle the employee to claim immunity from the proceedings. At the most the factum of acquittal may be a circumstance to be considered while awarding punishment. It would depend upon facts of each case and even that cannot have universal application.”

In view of the judgment of this Court as relied by the petitioner, as judgment of Hon’ble Supreme Court this Court feels that the order that has been passed by the Disciplinary Authority, is not sustainable and the same is quashed, the result will be that the order passed by the Appellate Authority and the Revisional Authority will also go but the case is being remanded back and the Bank will not be obliged to reinstate him back in service. The Disciplinary Authority will examine the explanation of the petitioner and pass the order considering his defence that he has taken in his written brief-cum-show cause. If any order is passed against the petitioner, the petitioner will have liberty to pursue the remedy which is available in law and if any order is passed in the favour of the petitioner, it goes without saying the Bank would act

in terms of the order passed by the Disciplinary Authority. Back wages will be subject to the order passed by the Authorities.

Let the Disciplinary Authority examine the case of the petitioner and pass a reasoned order within a period of three months from the date of receipt/production of a copy of this order.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

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