

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.17968 of 2012

1. C.DEVADOSS

... PETITIONER

Vs

1. THE ADDITIONAL REGISTRAR
OF CO-OPERATIVE SOCIETIES
CHENNAI REGION
CHENNAI-18.

2. THE SPECIAL OFFICER
WASHERMANPET CO-OPERATIVE STORES LTD
XNC- 589, OLD NO.91/2, NEW NO.248
P.A.N. RAJARATHINAM ROAD, CHENNAI-21.

... RESPONDENTS

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorari Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.3622/ 2011/E2 dated 2.1.2012 whereby confirming the order passed by the 2nd respondent in his proceedings No.Nil dated 11.5.2011 and quash the same and consequently direct the respondents to reinstate the petitioner into service with all backwages and monetary benefits.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.E.M.S.Natarajan,
G.A. for R1
Mr.R.Karunakaran for R2

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O R D E R

This Writ Petition is directed against the order dated 2.1.2012, whereby and whereunder the revisional authority confirmed the order passed by the second respondent without indicating reasons.

BRIEF FACTS:

2. The petitioner was appointed as a Packer in Washermanpet Cooperative Stores Limited, Chennai. The petitioner was expected to weigh the goods pursuant to the bill raised by the Salesman.

3. While so, the Society initiated disciplinary proceedings against the petitioner and the Salesman on the ground that they have raised bogus bills. The petitioner was suspended from service on 26.05.2009. The second respondent issued a charge memo to the petitioner and thereafter conducted enquiry. The petitioner was ultimately dismissed from service. The petitioner preferred a statutory revision before the first respondent. The revision petition was dismissed by way of a brief order. Being aggrieved by the said order, the petitioner has come up with this Writ Petition.

4. The second respondent in his counter affidavit contended that though the petitioner is a Packer, he was also jointly responsible for the irregularities committed in the ration shop.

SUBMISSIONS:

5. The learned counsel for the petitioner contended that the petitioner was expected to supply materials taking into account the bill raised by the Salesman, after verifying the ration card produced by the concerned consumers. The learned counsel contended that there was no charge against the petitioner that there was stock in excess or less. The learned counsel contended that in identical circumstances, the very same revisional authority accepted the case of another delinquent and held that he was responsible only for the stocks. The revision petition filed by the said delinquent was allowed and the proceedings were quashed. The petitioner is similarly situated but however a different yardstick was adopted in his case.

6. I have also heard the learned counsel for the respondents.

DISCUSSION:

7. There is no dispute that the petitioner functioned only as a Packer. The petitioner was responsible for supply of ration items on the basis of the bills produced by the concerned customer after paying the amount to the salesman. The charge memo issued to the petitioner proceeds as if he was also responsible for the misconduct with regard to bogus billing. The petitioner in the affidavit filed in support of the Writ Petition contended that

though the enquiry officer conducted enquiry earlier and filed a report before the disciplinary authority stating that charges were not proved, the disciplinary authority without taking any action to issue a second show cause notice after dissenting from the views taken by the enquiry officer, straight away appointed another enquiry officer and obtained a report, resulting in passing the order of dismissal. Even though the petitioner has taken up a valid contention that the enquiry report, which was the basis for the dismissal order was only the second enquiry report, the same has not been denied by the respondents.

8. The petitioner filed a statutory revision before the second respondent. The revisional authority was expected to consider the revision and pass orders with reasons. Unfortunately, the first respondent failed to indicate any justifiable reason in support of his finding that the second respondent was correct in imposing the punishment of dismissal.

RIGHT TO REASON:

9. Right to reason is a valuable right. In case a particular authority is given power to decide the matter on merits the order passed by such authority should contain reasons. The parties should not be put in darkness. The order should be a self speaking one. It is all the more necessary in case the orders are appealable or revisable by higher authorities.

10. The Supreme Court in Maya Devi v. Raj Kumari Batra, (2010) 9 SCC 486, indicated the necessity of giving reason by a body or authority in support of its decision. The observation reads thus :-

"28. It is in the light of the above pronouncements unnecessary to say anything beyond what has been so eloquently said in support of the need to give reasons for orders made by courts and statutory or other authorities exercising quasi-judicial functions. All that we may mention is that in a system governed by the rule of law, there is nothing like absolute or unbridled power exercisable at the whims and fancies of the repository of such power. There is nothing like a power without any limits or constraints. That is so even when a court or other authority may be vested with wide discretionary power, for even discretion has to be exercised only along well-recognised and sound juristic principles with a view to promoting

fairness, inducing transparency and aiding equity.

29. What then are the safeguards against an arbitrary exercise of power? The first and the most effective check against any such exercise is the well-recognised legal principle that orders can be made only after due and proper application of mind. Application of mind brings reasonableness not only to the exercise of power but to the ultimate conclusion also. Application of mind in turn is best demonstrated by disclosure of the mind. And disclosure is best demonstrated by recording reasons in support of the order or conclusion.

30. Recording of reasons in cases where the order is subject to further appeal is very important from yet another angle. An appellate court or the authority ought to have the advantage of examining the reasons that prevailed with the court or the authority making the order. Conversely, absence of reasons in an appealable order deprives the appellate court or the authority of that advantage and casts an onerous responsibility upon it to examine and determine the question on its own."

11. The impugned order passed by the first respondent does not contain reasons much less justifiable reasons. I am therefore of the view that the matter requires fresh consideration by the first respondent.

DISPOSITION:

12. In the result, the impugned orders are set aside and the matter is remitted to the first respondent for fresh consideration. The first respondent is directed to consider and dispose of the statutory revision filed by the petitioner on merits and in the light of his earlier order dated 9.2.2011. The petitioner should also be given opportunity of hearing before passing final orders. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. It is open to the petitioner to produce materials in support of his contention before the revisional authority.

13. The Writ Petition is allowed to the extent indicated above.
No costs.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

ajr

To

1. THE ADDITIONAL REGISTRAR
OF CO-OPERATIVE SOCIETIES
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2. THE SPECIAL OFFICER
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+1cc to Mr.C.Prakasam, Advocate, S.R.No.9725
+1cc to Mr.R.Karunakaran, Advocate, S.R.No.9531
+1cc to the Government Pleader, S.R.No.9649

W.P.No.17968 of 2012

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CA(06/03/2015)

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