

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

WP.No.5950 of 2009

&

MP.No.2 of 2009

M.Soundararajan

Petitioner

Vs

- 1.Oil and Natural Gas Corporation Limited
by Chairman Cum Managing Director,
New Delhi 110001
- 2.The Executive Director-Chief ER
Oil and Natural Gas Corporation Limited
Vadodara 390 009
- 3.The Director (HR), Oil and Natural Gas
Corporation Limited, New Delhi 110001
- 4.The Head HR/ER, Oil and Natural Gas
Corporation Limited, Chennai-8
Respondents

Prayer:- This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for records relating to the order No. 6/1/ m S/2005 D&A dated 30.6.2008 passed by the director (HR) and consequential appeal order dated 15.1.2009 respectively passed by the Executive Director Chief (ER) 2nd respondent and to quash the same and to direct the 1st Respondent company to reinstate the petitioner with back wages and all other consequential benefits and perquisites and due promotions.

For Petitioner : Mr.R.Singaravelan, SC for
Mr.S.Sivakumar

For Respondents : Mr.G. Masilamani, SC
M/s.King & Partridge

ORDER

In this Writ Petition, the Petitioner seeks to quash the orders dated dated 30.6.2008 of the 3rd Respondent and the consequential appeal order dated 15.1.2009 of the 2nd Respondent and to direct the 1st Respondent to reinstate the petitioner in service with back wages and all consequential benefits.

2. The grounds raised by the learned senior counsel for the Petitioner, challenging the impugned order of dismissal from service are that neither the original authority nor the Appellate Authority has given any reason for removal of the Petitioner from service, especially when in a case where the charge itself is only in respect of absenting from duty. Of course, he would also substantiate the same, stating that he had given a leave letter and he was undergoing mental depression and therefore, he could not attend the work. He would further specifically point out that the Appellate Authority has not even discussed in detail and simply passed an order on the basis of the order of the original authority. In fact, both the authorities did not apply their mind at all or give any reason whatsoever. In this connection, he would point out that the Appellate Authority has in one sentence has concluded the entire thing, by simply stating in the order dated 15.1.2009 as follows:-

"7. Accordingly the decision of the Appellate Authority i.e. CMD is hereby conveyed to Shri M.Soundarajan, ex-Manager (IE)."

Therefore, the learned senior counsel would contend that the impugned order is a non speaking order and is liable to be set aside.

3. On the other hand, the learned senior counsel for the Respondents brought to the notice of this court that all orders need not be elaborate orders and it is enough if an order is able to establish that the evidence has been considered and it need not elaborate each and every contention. He would further contend that the Petitioner is an officer, who has not chosen to give a leave letter for more than 5 years absenting from duty and the enquiry was duly conducted where the Petitioner also participated and accordingly, the authorities had chosen to give a correct punishment.

4. This court heard the learned counsel on either side and considered their submissions and also perused the materials placed on record.

5. The Petitioner has been charge sheeted for an offence of not attending the office for more than 5 years. That being the case, the Petitioner was also given an opportunity to appear before the enquiry officer, which he did not avail. Unfortunately, though the Petitioner sent his representative on behalf of him, he was not allowed to participate in the enquiry and according to the Management, he was not eligible to get requisite holidays and therefore, he could not get a holiday.

6. Be that as it may. Admittedly, the enquiry was conducted in the presence of the Petitioner. The enquiry officer has come to the conclusion that the absenting from

duty for an inordinate period of five years is a serious one. The enquiry officer's findings have been accepted by the Appellate Authority. Though much argument was made that the Appellate Authority did not give any specific reason and did not consider all the facts and has not given separate conclusion, but however the fact remains that the disciplinary authority has at least given some reasons and taken into consideration the various evidences and thereafter, has come to the conclusion. Whereas as rightly pointed out by the learned senior counsel for the Petitioner, on perusal of the order of the Appellate Authority, the Appellate Authority, who is a senior most officer of the Company, in his order, has not given any reason at all and simply stated in the order dated 15.1.2009 as follows:-

"7. Accordingly the decision of the Appellate Authority i.e. committed is hereby conveyed to Shri M.Soundarajan, ex-Manager (IE)."

7. From this one sentence, this court is not able to establish as to whether the officer has given any finding at all or any reason has been given and how he arrived at such a conclusion and on what basis evidence has been appreciated by him. When a life of a person is involved and when his future is involved, the Appellate Authority ought to have given a reason attributable for the punishment. When that has not been done, definitely, as rightly pointed out by the learned senior counsel for the Petitioner, the order of the Appellate Authority alone is liable to be set aside and accordingly, it is set aside and the matter is remanded back to the Appellate Authority for consideration afresh.

8. Though the personal hearing is not mandatory, taking into consideration that the Petitioner has been undergoing this punishment for a quite number of years without salary, this court feels that the Petitioner may be given one more opportunity of making a fresh representation to the Appellate Authority within a period of 10 days from the date of receipt of a copy of this order and on receipt of such representation, who in turn, shall, pass appropriate orders, on merits and in accordance with law, as expeditiously as possible.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

Srcm

+ 1 cc to M/s. King & Partridge, Advocate Sr.46971

SV(CO)
EU 07.09.16

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