

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.1360 of 2003

ORDER:

This writ petition under Article 226 of Constitution of India is filed challenging the order of removal, dated 24-05-2002 passed by the 2nd respondent and confirmed by the 4th respondent by order, dated 27-11-2002 rejecting the appeal and declare the same as illegal, arbitrary and without jurisdiction and contrary to the General Insurance (Conduct, Discipline and Appeal) Rules.

The main grievance of the petitioner is that while discharging his duties charges were framed against him complaining several irregularities in discharging his duties and later initiated a regular departmental enquiry and found him guilty for the charges, passed an order of removal from service. Thereupon he filed an appeal before the appellate authority – 4th respondent who in turn confirmed the order by passing a cryptic order without considering various grounds urged before the appellate authority, held as follows:

“Whereas the undersigned being the Appellate Authority examined the ground of appeal and the enquiry report submitted by the Inquiry Officer vis-à-vis the penalty imposed by the Competent Authority and observes that no new ground has been advanced by Shri C. Ravindranath then Administrative Officer in the appeal.”

Passing of such a cryptic order without considering the grounds urged in the appeal by the appellate authority itself is in violation of the General Insurance (Conduct, Discipline and

Appeal) Rules.

Learned counsel for the petitioner also placed reliance on a judgment reported in ***CHAIRMAN, DISCIPLINARY AUTHORITY, RANI LAKSHMI BAI KSHETRIYA GRAMIN BANK V. JAGDISH SHARAN VARSHNEY AND OTHERS***^[1], wherein the Hon'ble Apex Court held that an order of affirmation need not contain as elaborate reasons as an order of reversal but that does not mean the order of affirmation need not contain any reasons at all. Whether there was an application of mind or not, can only be disclosed by reasons, at least in brief, mentioned in the order of appellate authority. An affirmation order must contain some reasons, at least in brief. Based on the said principle it is contended that the order of the appellate authority – 4th respondent is bereft of any reasons and liable to be dismissed.

Whereas Sri Vedula Srinivas, learned counsel for the respondents drawn the attention of this Court, Regulation 37 (2) of the General Insurance (Conduct, Discipline and Appeal) Rules, which obligates the appellate authority to consider whether the procedure prescribed in the Rules has been complied with, and if not whether such non-compliance has resulted in failure of justice, whether the findings are justified and whether the penalty imposed is excessive, adequate, or inadequate, and pass orders, setting aside, reducing, confirming or enhancing the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case and that in the order impugned in this writ petition the 4th respondent has applied his mind and prayed to

pass appropriate order.

As seen from the order under challenge passed by the 4th respondent he did not even refer the specific grounds urged in the appeal preferred before him and simply affirmed the order of the 2nd respondent as no new ground is urged. If the principles laid down in ***Jagadeesh Sharan Varshney and others*** cited supra is applied to the present facts of the case the 4th respondent being appellate authority has to record some reasons to negate the relief in the appeal while confirming the order passed by the 2nd respondent but no such reasons were recorded by the appellate authority. Hence, the order of the 4th respondent appellate authority is bereft of any reasons, affirming the order passed by the 2nd respondent and then not complied Regulation 37 (2) of General Insurance (Conduct, Discipline and Appeal) Rules and in these circumstances the course open to this Court while exercise the power of judicial review under Article 226 of the Constitution of India to remand the matter to the appellate authority 4th respondent directing to consider the specific grounds urged by the writ petitioner/appellant before the 4th respondent and record reasons afresh in compliance of Regulation 37 (2) referred supra and decide the appeal within a period of three (3) months from the date of receipt of a copy of this order after affording reasonable opportunity to the writ petitioner. It is also made clear that as on today the order of the 2nd respondent remain in force till it is set aside by the appellate authority or any other competent Court.

With the above direction, the writ petition is allowed. There

shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

August 01, 2016

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[\[1\]](#) (2009) 4 Supreme Court Cases 240