

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.3848 of 2015

Devaram, S/o Shri Karam Sai Rajwade, aged about 38 years, Occupation Ex-Mining Sirdar, R/o Village Jarhi, Bhatgaon, Tahsil Pratappur, District Surajpur (C.G.)

---- Petitioner

Versus

1. South Eastern Coalfields Limited, Through the Chairman-cum-Managing Director, Basant Vihar, Seepat Road, Sarkanda, Bilaspur, District Bilaspur (C.G.)
2. The General Manager (P & A), Basant Vihar, Seepat Road, Sarkanda, Bilaspur, District Bilaspur (C.G.)
3. The Chief General Manager, South Eastern Coalfields Limited, Bhatgaon Area, SECL, District Surajpur (C.G.)
4. The Mines Manager, Mahamaya Project, SECL Bhatgaon Area, District Surajpur (C.G.)
5. The Senior Manager (Excavation/Enquiry Officer), Headquarter Bhatgaon Area SECL, District Surajpur (C.G.)
6. Sub Area Manager, Kalyani Sub Area, SECL, District Surajpur (C.G.)

---- Respondents

For Petitioner:	Mr. Ashok Kumar Shukla, Advocate.
For Respondents:	Mr. Sudhir Kumar Bajpai, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/02/2017

1. The petitioner was dismissed from service by the SECL, by order dated 11-8-2014. Feeling aggrieved against the order of dismissal, he preferred appeal on 5-12-2014 before the

appellate authority of the SECL. The appellate authority by its impugned order dated 12-3-2015, disposed of the appeal, rather dismissed the appeal, against which this writ petition under Article 226 of the Constitution of India has been filed.

2. Learned counsel for the petitioner would submit that the appellate authority has relied upon the family tree of the petitioner dated 21-2-2014 along with the enquiry report. He would further submit that the family tree dated 21-2-2014 has been set aside by the Additional Collector, Surajpur by its order dated 27-11-2014 and the appeal preferred by the SECL against the said order of the Additional Collector has been dismissed by the Additional Commissioner, Surguja Division, Ambikapur by order dated 26-2-2016, despite that, the family tree dated 21-2-2014 issued by the Revenue Inspector and countersigned by the Tahsildar, has been relied upon by the appellate authority.
3. Learned counsel for the respondents would submit that the appellate authority has properly considered the appeal on merits and therefore no interference is required.
4. I have heard learned counsel for the parties and considered the rival submissions made by them and also perused the entire material available on record with utmost circumspection.
5. The petitioner's services have been dismissed after holding a

full-fledged regular departmental enquiry and holding that charges levelled against the petitioner are of moral turpitude and subsequently, he has been dismissed. In an appeal preferred by the employee, it is expected from the appellate authority to at least consider the grounds of the appeal and also to pass a speaking and reasoned order. The appellate authority in the impugned order only in one paragraph decided the appeal relying upon the report dated 21-2-2014, which has admittedly been set aside by the Additional Collector, and the appeal preferred by the SECL against the order of the Additional Collector, has been dismissed holding that the report dated 21-2-2014 is absolutely improper. The report dated 21-2-2014, which has been set aside, has been relied upon to dismiss the appeal and no reason has been assigned for upholding the order of the disciplinary authority. The appellate authority ought to have considered the appeal by assigning reasons why the order passed by the disciplinary authority is required to be maintained. Placing reliance upon the report, which has been set aside, is wholly impermissible. The manner of deciding a department appeal by the appellate authority is wholly unsatisfactory.

6. Their Lordships of the Supreme Court in the matter of **Divnl. Forest Officer, Kothagudem & Ors. v. Madhusudhan Rao**¹

have dealt with a matter relating to disciplinary proceedings

¹ 2008 AIR SCW 1365

and held that in departmental appeal/revision against order of punishment, appellate/revisional authorities ought to indicate some reason even while conforming an order passed by the lower forum and observed as under: -

“18. Having considered the submissions made on behalf of the respective parties and also having regard to the detailed manner in which the Andhra Pradesh Administrative Tribunal had dealt with the matter, including the explanation given regarding the disbursement of the money received by the respondent, we see no reason to differ with the view taken by the Administrative Tribunal and endorsed by the High Court. No doubt, the Divisional Forest Officer dealt with the matter in detail, but it was also the duty of the appellate authority to give at least some reasons for rejecting the appeal preferred by the respondent. A similar duty was cast on the revisional authority being the highest authority in the Department of Forests in the State. Unfortunately, even the revisional authority has merely indicated that the decision of the Divisional Forest Officer had been examined by the Conservator of Forests, Khammam wherein the charge of misappropriation was clearly proved. He too did not consider the defence case as made out by the respondent herein and simply endorsed the punishment of dismissal though reducing it to removal from service.

19. It is no doubt also true that an appellate or revisional authority is not required to give detailed reasons for agreeing and confirming an order passed by the lower forum but, in our view, in the interests of justice, the delinquent officer is entitled to know at least the mind of the appellate or revisional authority in dismissing his appeal and/or revision. It is true that no detailed reasons are required to be given, but some brief reasons should be indicated even in an order affirming the views of the lower forum.”

7. Accordingly, the impugned order dated 12-3-2015 is set aside and the case is remitted back to the appellate authority to consider and disposed of the same afresh, in accordance with law, ignoring the document which has been set aside by the higher revenue authority in this case. The appeal is restored to its original number and same would be decided within 45 days from the date of receipt of a copy of this order.
8. With the aforesaid observation, the writ petition is finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma