

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 922 of 2016**

Smt. Pushpa Ekka W/o Shri S.S. Ekka, Aged About 58 Years Working As Upper Division Teacher, At Govt. Girls Middle School, Godhi, Block Tamnar, District Raigarh Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Department Of Schedule Caste And Schedule Tribe Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. The Commissioner, Schedule Caste And Schedule Tribe Development, Chhattisgarh, Indrawati Bhawan, Naya Raipur, Chhattisgarh
3. The Commissioner, Bilaspur Division, Bilaspur Chhattisgarh.
4. The Collector, District Raigarh, Chhattisgarh.
5. The Assistant Commissioner, Office Of The Collector, Tribal Development, Raigarh District Raigarh Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Rajesh Kumar Kesharwani, Advocate
For State	:	Mr. Aushutosh Pandey, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01/05/2018**

1. The grievance of the petitioner in the present writ petition is to Annexure P/1 dated 05.12.2015. Vide the said impugned order; the authorities concerned have rejected the appeal preferred by the petitioner on the ground that it is not in accordance with the provisions of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.
2. The facts of the case is that the petitioner in the instant case working as an Upper Division Teacher/Incharge Hostel Superintendent at the Govt. Kanya Ashram, Godhi was inflicted with the punishment of withholding of two annual increments with cumulative effect vide order dated 25.11.1999, passed by the Collector, Raigarh. The said

order was challenged by the petitioner before the Commissioner, Bilaspur division by way of a revision. The Commissioner vide its order dated 23.09.2000 partly allowed the revision to the extent that the order of punishment was modified from the stoppage of two increments being made with cumulative effect to the stoppage of two increments without cumulative effect.

3. The petitioner thereafter appears to have not challenge the said order before any higher authority and continued to work with the respondents and thereafter a review was again sought for against the order of Commissioner, which again stood rejected vide order dated 16.08.2004. The petitioner thereafter is said to have been repeatedly making representations to the authorities concerned and finally there was no response received from the authorities concerned, the petitioner preferred a writ petition before this High Court, which was registered as WPS No. 2855/2009. The said writ petition stood rejected vide order dated 19.06.2009 reserving the right of the petitioner to prefer an appeal before the concerned authority. Subsequently, an appeal was preferred vide Annexure P/7 on 25.09.2009 before the Secretary, Schedule Castes, Schedule Tribes Development Department, Government of Chhattisgarh, Raipur. It is this appeal, which stands rejected vide order dated 05.12.2015, against which the present writ petition has been preferred since 2016.
4. According to the counsel for the petitioner, the rejection of the appeal is by a non-speaking order and that no reason whatsoever has been assigned as to why the appeal was not maintainable. He submits that as per the liberty granted by the High Court on 19.06.2009, the

petitioner had preferred an appeal and along with an appeal, he had also enclosed an application under Section 5 of the Limitation Act seeking condonation of delay in filing of the appeal. Yet the authorities concerned have rejected the appeal by a one line order. He submits that the matter deserves to be remitted back to the appellate authority, who in turn may decide the appeal and the application enclosed along with that on merits.

5. The State counsel however opposes the petition on the ground that there is an inordinate delay on the part of the petitioner in preferring an appeal and that the earlier writ petition also has been filed after more than 9 years from the date of the order passed by the Commissioner modifying the order of punishment by the Collector. He further submits that the delay also has not been properly explained by the petitioner and therefore the order passed by the authorities concerned, cannot be said to be bad in law in any manner and the writ petition deserves to be rejected.
6. A plain reading of the operative part of the order would reveal that it is only an one lined order which has been passed by the Appellate authority while rejecting the appeal as is reflected from the impugned order dated 05.12.2015. For ready reference, the operative part is reproduced herein under:-

“आपका अभ्यावेदन छ.ग. सिविल सेवा आचरण (वर्गीकरण, नियंत्रण तथा अपील) नियम 1966 के तहत नहीं होने के कारण अमान्य किया जाता है।”

7. It is by now a well settled principle of law is that the Appellate authority also is required to give reasons while deciding the appeal. Moreover, the appeal was preferred before the authorities by the petitioner with the lieu of the High Court and it was all the more

required that authorities should have applied his mind while rejecting the appeal.

8. Prima facie it does not disclosed, whether the appeal has been rejected on merits or whether it has been rejected on the ground of limitation.
9. It is now well settled principles of law that giving reasons is a indispensable component of decision making process and the same equally applies upon Quasi Judicial authority and even upon the administrative bodies. The Supreme Court always has opined that the order passed by Quasi Judicial authority or even the administrative authority affecting rights of the parties must be a speaking order. The question regarding recording of reasons, its importance and necessity came up for consideration before the Supreme Court in case of *Kranti Associates Private Limited & Another Vs. Masood Ahmed Khan & Others* (reported in 2010 (9) SCC 496) wherein the Supreme Court has extensively and elaborately dealt with the issue of need of giving reasons.
10. Similarly in case of *East Coast Railway and Another Vs. Mahadev Appa Rao and Others* with *K. Surekha Vs. Mahadeo Appa Rao and Others* (reported in 2010(7)SCC 678), the Supreme Court in a very categorical terms has held that every order passed by a public authority must disclose due and proper application of mind by the persons making the order. Application of mind is best demonstrated by disclosure of mind by the authority making the order and disclosure is best done by recording the reasons that led the authority to pass the order in question. Absence of reasons either in the order passed by the authority or in the record contemporaneously

maintained is clearly suggestive of the order being arbitrary hence legally unsustainable. In the absence of reasons in support of the order it is difficult to assume that the authority had properly applied its mind before passing of the order.

11. Likewise, again in case of Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota Vs. Shukla and Brothers (reported in 2010(4)SCC 785), the Supreme Court has held that “recording of reasons is an essential feature of dispensation of justice. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighted with the authority in rejecting him claim and also causes impediments in his taking adequate and appropriate grounds before the higher court in the event of challenge to that order”.
12. In the light of the aforesaid judicial pronouncement, this Court is of the opinion that impugned order passed by the Appellate authority on 05.12.2015 is not sustainable and the same deserves to be and is accordingly set-aside and the matter is remitted back to the Appellate authority to decide the appeal objectively considering the grounds and the contentions raised by the petitioner in his appeal including the application under Section 5 of the Limitation Act.
13. Needless to mention that this Court has not expressed anything on the merits of the case so far as the appeal of the petitioner is concerned. The Appellate authority would be free to decide the same

in accordance with the rules including the application under Section 5 of the Limitation Act.

14. It is expected that the authorities concerned would take a decision on the appeal preferred by the petitioner within a period of 90 days from the date of receipt of certified copy of this order.
15. The writ petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved