

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 25676 of 2016

Date of Decision: January 31 , 2020.

M/s Metals India

..... PETITIONER (s)

Versus

Corporation Bank and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rohit Ahuja, Advocate
for the petitioner.

Mr. Tribhawan Singla , Advocate
for respondents No.1, 2 and 4.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This writ petition has been filed challenging order dated 17.05.2016 (Annexure P26) passed by the Appellate Authority whereby award dated 27.02.2012 (Annexure P18) passed by the Banking Ombudsman in favour of the petitioner, has been set aside.

The undisputed facts are that the petitioner's claim of ₹9,79,386.70/- alongwith applicable interest, was accepted by the Banking Ombudsman and award dated 27.02.2012 was passed in favour of the petitioner. The details

thereof, not being relevant for the controversy in hand are not being narrated. The respondent-bank, being aggrieved, preferred an appeal which was accepted by the Appellate Authority as reflected in communication/order dated 25.06.2012 (Annexure P19). The said communication/order was challenged by the petitioner in CWP No.25188 of 2012 and his petition was allowed by this Court vide order dated 08.02.2016 on the ground that order dated 25.06.2012 was passed by the Appellate Authority without affording an opportunity of hearing to the parties before pronouncing the decision. It is categorically observed in order dated 08.02.2016 passed by this court that no notice was issued to the petitioner before decision of the appeal filed by the respondent-Bank. In this view of the matter, order dated 25.06.2012 was set aside and the matter remitted to the Appellate Authority to decide the same afresh, in accordance with law after affording opportunity of hearing to both the parties. Thereafter, impugned order dated 17.05.2016 (Annexure P26) has been passed by the Appellate Authority yet again accepting the appeal of the respondent-Bank and consequently, setting aside award dated 27.02.2012 (Annexure P18) passed by the Banking Ombudsman. Aggrieved therefrom, present writ petition has been filed by the petitioner.

Learned counsel for the petitioner vehemently argues that the Appellate Authority has not only passed a totally non-speaking order but also without affording a proper opportunity of hearing to the petitioner. Complete non-application of mind, it is submitted, is apparent on the face of it. It is, thus, prayed that this writ petition be allowed and the impugned order be set aside.

Learned counsel for respondents No.1, 2 and 4 while refuting the abovesaid arguments submits that due opportunity of hearing was afforded to the

parties on 04.04.2016. The petitioner was heard through video conferencing and an opportunity to submit rejoinder was also afforded. Dismissal of the writ petition is, thus, prayed for.

I have heard learned counsel for the parties and have gone through the file.

A perusal of order dated 17.05.2016 (Annexure P26) reveals that there is not even a reference, much less a decision in respect to the pleas raised by the petitioner. It is observed in the impugned order, that the petitioner was heard through video conferencing from RBI, New Delhi on 04.04.2016. It is further observed that 'during the course of hearing an opportunity was also given to the parties to submit rejoinder, if required'. Learned counsel for the respondent-Bank is unable to deny that the matter was never deferred for any other date after 04.04.2016 and impugned order dated 17.05.2016 was thereafter simply conveyed to the parties. The operative part of the impugned order dated 17.05.2016, reads as under:-

“I have carefully perused all the documents pertaining to the case and the earlier order of the Appellate Authority communicated to the parties on June 25, 2012. On careful perusal of all the documents and having heard submission of the parties, it is observed that there were no new grounds brought forth by the Respondent/Complainant with regard to the matter. In view of the above, I did not find any ground, meriting the review of the earlier decision of the Appellate Authority dated June 18, 2012 communicated to the parties on June 25, 2012.”

It is apparent that the learned appellate authority has passed a

completely laconic and non-speaking order without a shred of reasoning before upsetting order dated 27.02.2012. It is a settled position of law that the authority in question, while passing an order affecting the rights of the parties, must record reasons for its decision. Reference in this regard can gainfully be made to **2010 (9) SCC 496, M/s Kranti Associates Pvt. Ltd. and another v. Masood Ahmed Khan and others.**

In this view of the matter, present writ petition is allowed. Order dated 17.05.2016 (Annexure P26) passed by the Appellate Authority is set aside. The matter is again remitted to the Appellate Authority for a decision afresh after affording proper opportunity of hearing to both the parties and thereafter, pass a speaking order.

Parties to appear before the Appellate Authority on 02.03.2020.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

January 31 , 2020.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No