



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.416 and 1311 of 2011

and

M.P. (MD)Nos.1 and 2 of 2011

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W.P. (MD)No.416 of 2011

Y.Jeyakumar

... Petitioner

Vs.

1.The Union of India,
represented by the Director General,
Railway Protection Force,
Railway Board,
New Delhi.

2.The Chief Security Commissioner,
Railway Protection Force,
East Coast Railway,
Bhubaneswar.

3.The Commanding Officer,
5th Batalion, RPF,
Kimber Garden,
Khajamalai,
Tiruchirappalli-23.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records pertaining to the order in No.2009/Sec(E)/DAR-2/33, dated 11.12.2010, passed by the first respondent confirming the order dated 01.08.2009, passed by the second respondent, quash the same and consequently direct the respondents to pay all the monetary dues to the petitioner.

W.P. (MD)No.1311 of 2011

Y.Jeyakumar

... Petitioner

Vs.

1.The Union of India,
represented by the Director General,
Railway Protection Force,
Railway Board,
New Delhi.



2.The Chief Security Commissioner,
Railway Protection Force,
East Coast Railway,
Bhubaneswar.

3.The Commanding Officer,
5th Batalion, RPF,
Kimber Garden,
Khajamalai,
Tiruchirappalli-23.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the second respondent, dated 24.08.2009 and confirmed by the first respondent in Order No.2009/Sec(E)/DAR-2/36, dated 11.01.2010, quash the same and consequently direct the respondents to pay all the monetary dues to the petitioner.

For Petitioner
in all petitions : Ms.D.Geetha

For Respondents
in all petitions : Mr.S.Manohar
Standing Counsel

COMMON ORDER

W.P.(MD)No.416 of 2001 is filed seeking for issuance of writ of Certiorarified Mandamus to call for the records pertaining to the order in No.2009/Sec(E)/DAR-2/33, dated 11.12.2010, passed by the first respondent confirming the order dated 01.08.2009, passed by the second respondent, quash the same and consequently direct the respondents to pay all the monetary dues to the petitioner.

2. W.P.(MD)No.1311 of 2011 is filed seeking for issuance of writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the second respondent, dated 24.08.2009 and confirmed by the first respondent in Order No.2009/Sec(E)/DAR-2/36, dated 11.01.2010, quash the same and consequently direct the respondents to pay all the monetary dues to the petitioner.

3. The case of the petitioner in W.P.(MD)No.416 of 2011 is as follows:

(i) The petitioner entered into service under the Railway Protection Force as Sub-Inspector in the year 1978 and thereafter



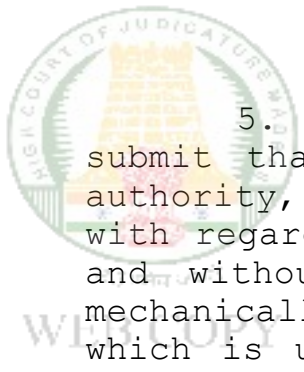
acquiring several promotion and finally he was promoted as Assistant Security Commissioner and while he was posted as Assistant Security Commissioner, Waltair Division, East Coast Railway, he was issued with a charge sheet, dated 28.05.2009 with ten charges and all the charges were pertaining to an occurrence, against which, the petitioner had taken immediate action and reported to his superiors. The sum and substance of the charge is that the petitioner not properly supervised the godown and huge amount of railway properties were theft, due to which, there is a heavy loss to the Railways and for that, the petitioner submitted his explanation dated 13.08.2009 and after considering the petitioner's explanation, the disciplinary authority imposed the punishment of reduction in his present time scale of pay by one stage lower for a period of two years without cumulative effect on 01.08.2009.

(ii) Aggrieved by the said order of punishment, the petitioner preferred an appeal before the first respondent and without considering any grounds raised by the petitioner, the appellate authority simply confirmed the order passed by the original authority, vide a non-speaking order, dated 11.12.2009. Challenging the same, the present writ petition is filed.

4. The case of the petitioner in W.P.(MD)No.1311 of 2011 is as follows:

(i) The petitioner entered service under the Railway Protection Force as Sub-Inspector in the year 1978 and thereafter acquiring several promotion and finally he was promoted as Assistant Security Commissioner and while he was posted as Assistant Security Commissioner, Waltair Division, East Coast Railway, he was issued with a charge sheet, dated 03.08.2009 with two charges and all the charges were pertaining to an occurrence, against which, the petitioner had taken immediate action and reported to his superiors. The sum and substance of the charge is that there is allegation of gross misconduct on the part of the petitioner in clearing up the old case properties lying in Malkhana and for that, the petitioner submitted his explanation dated 13.08.2009 and after considering the petitioner's explanation, the disciplinary authority imposed the punishment of withholding his next increment in the time scale for a period of one year (without any effect on his pensionary benefits), on 24.08.2009.

(ii) Aggrieved by the said order of punishment, the petitioner preferred an appeal before the first respondent and without considering any grounds raised by the petitioner, the appellate authority simply confirmed the order passed by the original authority, vide a non-speaking order, dated 11.01.2010. Challenging the same, the present writ petition is filed.



5. Learned Counsel appearing for the petitioner would submit that even on a perusal of the order of the appellate authority, it would clearly reveal that there is no discussion with regard to the grounds raised by the petitioner in the appeal and without discussing any merits and demerits of the case, mechanically rejected the appeals preferred by the petitioner, which is unsustainable one and hence, the learned Counsel would pray to set aside the order passed by the first respondent and remand back the matter for passing a speaking order.

6. Learned Standing Counsel appearing for the respondents did not dispute the facts submitted by the learned Counsel appearing for the petitioner. Further he would submit that the appellate authority, before passing the order, perused the entire records available before him and passed the order, which cannot be interfered with. Accordingly, he would pray for dismissal of the writ petitions.

7. Heard the learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials placed on record.

8. The facts relating to the present cases are not in dispute. For the misconduct alleged to have been committed by the petitioner two charge sheets dated 28.05.2009 and 03.08.2009 have been issued and after conducting enquiry, the disciplinary authority viz., the second respondent passed detailed orders by imposing punishments. Against the said orders, the petitioner preferred appeals before the appellate authority viz., the first respondent. It appears that there are several grounds raised before the appellate authority by the petitioner. However, the appellate authority, without considering any ground raised in the appeals and without discussing any merits of the case, passed the orders. The appellate authority passed the orders through non-speaking orders and there is no clue to ascertain as to whether the appellate authority has considered the grounds raised by the petitioner and such a blanket orders can never be construed as valid and all such orders are to be scrapped in *limine*. Hence, this Court has no hesitation in holding that such non-speaking orders are invalid in the eye of law and the Constitutional Courts have time and again held that the authorities competent as well as the appellate authority, on adjudication of the issues under the statute, must assign reasons for arriving at a conclusion. This being the established principles of law, the non-speaking orders passed by the appellate authority, ie., the first respondent herein dated 11.12.2009 and 11.01.2010 are hereby set aside and the matters are remitted back to the first respondent for fresh consideration.



9. With the above observations, both the Writ Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Director General,
Railway Protection Force,
Railway Board, New Delhi.
2. The Chief Security Commissioner,
Railway Protection Force,
East Coast Railway,
Bhubaneswar.
3. The Commanding Officer,
5th Batalion, RPF,
Kimber Garden,
Khajamalai,
Tiruchirappalli-23.

+2 CC to Mr.S.MANOHARAN, Advocate (SR-2286,2285[F] dated 29/01/2021)

W.P(MD)Nos.416 and 1311 of 2011
27.01.2021

KM (11.02.2021) 5P 6C