

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1056 of 2016

In

Civil Writ Jurisdiction Case No.15248 of 2006

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1. Suresh Kumar Singh and Ors son of Sri Brij Kishore Singh resident of Village- Badhiyan, P.S. Ekma, District- Saran.
 2. Satya Narayan Singh Son of Late Mathura Singh, resident of Village- Amma Pali, P.S.- Pirpaiti, District- Bhagalpur.

... .. Appellant/s

Versus

1. The State Of Bihar through the Secretary, Personnel and Administrative Department, Bihar, Patna (At Present General Administrative Department)
2. The Patna High Court, Patna through its Registrar, Patna High Court, Patna.
3. The District and Session Judge, Civil Court, Bhagalpur.
4. The Registrar, Civil Court, Bhagalpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Kant Singh, Advocate
Mr. Anil Kumar Sinha, Advocate
For the Respondent/s : Mr. Sanjeev Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-10-2022

In this LPA, appellants have prayed for the following relief/reliefs:

“1. That the instant memo of appeal is directed against the judgement dated 13.07.2015 passed in CWJC No. - 15248 of 2006 by Hon’ble Mr.



Justice Mihir Kumar Jha, whereby and where under the writ application filed by the appellants against the punishment awarded to them has been dismissed.

2. That the instant writ application bearing C.W.J.C. No. 15248 of 2006 was filed by the appellants for quashing the order dated 11.07.05 passed by the learned Sessions Judge, Civil Court, Bhagalpur whereby and where under punishment has been awarded to the appellants of withholding four increments and salary of the suspension period and also for quashing of the order dated 24.05.2006 passed by the Hon'ble High Court Patna by which punishment has been modified with respect to withholding of increments i.e. two in place of four, and by issuing an appropriate writ and further for issuance of an appropriate writ/writs, direction/directions directing the respondents to pay salary of the suspension period i.e. 22.9.04 to 11.7.05.”

2. Appellants were subjected to disciplinary proceedings which was concluded in imposition of penalty of withholding of four increments. Feeling aggrieved and dissatisfied with the order of the disciplinary authority, petitioners' preferred appeal before the appellate authority and appellate authority modified the penalty from withholding of four increments to that of two increments, still aggrieved by the orders of disciplinary and appellate authority, petitioners preferred C.W.J.C. No. 15248 of 2006. The learned



Single Judge affirmed the orders of the disciplinary and appellate authority. Hence the present L.P.A.

3. Learned counsel for the appellants submitted that appellate authority and the Learned Single Judge has failed to consider the case on merits. It is also submitted that appellate authority has not passed a speaking order in terms of the relevant provision of law for consideration of appeal, therefore, appellate authority's order dated 24.05.2006 and order of the learned Single Judge dated 13.07.2015 passed in C.W.J.C. No. 15248 of 2006 are liable to be set aside.

4. *Per contra*, learned counsel for the respondents resisted the aforesaid contentions and submitted that there is no infirmity in the orders of the disciplinary authority, appellate authority and order of the learned Single Judge. Having regard to the evidence adduced by the complainant before the inquiring authority, there is no infirmity in holding the charges proved against the petitioners.

5. Heard learned counsels for the respective parties.

6. We are of the view that appellate authority has not passed reasoned and speaking order. Therefore, we have to remand the matter while setting aside the orders of the appellate authority and learned Single Judge.



7. Order of the appellate authority dated 24.05.2006

reads as under:

“VINOD KUMAR SINHA

Registrar (Administration)

HIGH COURT OF JUDICATURE AT PATNA

To,

The District and Sessions Judge,

Bhgalpur.

Subject: Departmental appeal of S/Sri Suresh Kumar Singh, Satya Narain Singh and Md. Afsar, all are peons of Civil Courts, Bhagalpur

Dated, Patna the 24th May, 2006

Sir,

With reference to your letter No. 306 (Nazarat) dated, the 18th Oct, 2005. I am directed to inform you that this Court have been pleased to direct you to withhold two increments instead of four, the appellants, above named. The appellants may be informed accordingly.

Yours faithfully

sd/-

Registrar (Admn.)”

8. Rule 19 of Bihar Civil Court Staff (Class III and Class

IV) Rules, 1998 (for short “Rules, 1998”) reads as under:

“19. Appeal – (1) Any employee aggrieved by imposition of any minor/major punishments upon him by the disciplinary authority may prefer an appeal to the High Court within a period of 30 days from the date of receipt of a copy of the said order and/or from the date of communication of the said order upon the concerned employee.



(2) Such memorandum of appeal shall be forwarded by the District Judge concerned to the Registrar of the High Court together with his comments thereon, if any, within two weeks from the date of receipt of such memorandum of appeal.

(3) The Standing Committee of the High Court shall, dispose of such appeal as expeditiously as possible and preferably within a period of three months from the date of receipt of the memorandum of appeal, if the same has been preferred against an order imposing a major penalty and by the Judge Administrative Department No. 1 in case of a minor penalty.

(4) All procedures for holding departmental proceeding, imposition of penalty, disposal of appeal, etc. shall be governed by such statutory rules as are applicable for the employees concerned.”

9. In the light of Rule 19 read with appellate authority's order, this Court cannot come to the conclusion that appellate authority has adhered to Rule 19 of Rules, 1998. Perusal of appellate authority's order, it is only communication of reducing penalty. However, Each of the contentions stated in memorandum of appeal is not considered in the appellate authority's order. Further, Apex Court in the following cases held that reasons are to be assigned while passing orders which are likely to be subjected to judicial review namely:



“i) Secretary and Curator, Victoria Memorial Hall vs. Howrah Ganatantrik Nagrik Samity and Others reported in **(2010) 3 SCC 732**

ii) Kranti Associates (P) Ltd. v. Masood Ahmed Khan reported in **(2010) 9 SCC 496, Para 47** elaborately considered as how the judicial, quasi-judicial and other orders should be. Para 47 reads as under:

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial



decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija v. Spain* [(1994) 19 EHRR 553] EHRR, at 562 para 29 and *Anyia v. University of Oxford* [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of



giving reasons for the decision is of the essence and is virtually a part of “due process.”

10. Accordingly order of the appellate authority dated 24.05.2006 and order of the learned Single Judge dated 13.07.2015 passed in C.W.J.C. No. 15248 of 2006 are set aside. Matter is remanded to the appellate authority to pass afresh order after due consideration of each of the contentions raised by the appellants and to consider in accordance with Rule 19 of Rules, 1998. The above exercise shall be completed within a period of four months from the date of receipt of this order.

11. Original records furnished by the respondents’ counsel for the High Court *Mr. Sanjeev Kumar* has been returned to him.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	19.10.2022
Transmission Date	

