

24.03.2022

Court : 04
Item : PB-03
Matter : MAT
Status : DISPOSED OF
Transcriber: nandy

CAN 1 of 2022
in
MAT 36 of 2022

Dulal Chandra Das
Vs.

The State of West Bengal & Ors.

Mr. Biswarup Biswas, Advocate
Mr. Dwariknath Mukherjee, Advocate
Mr. Sayantan Hazra, Advocate

.....for the Appellant

Mr. Supriyo Chattopadhyay, Advocate
Ms. Sayantanee Bhattacharjee, Advocate

.....for the State

This appeal is directed against a judgment and order dated January 5, 2022 passed by the single Bench in WPA 17704 of 2021, whereby and whereunder the writ-petition was dismissed holding that there is no infirmity in the report of the District Inspector of Schools, Murshidabad.

The first paragraph of the impugned order indicates that the dispute pertains to the higher scale of pay, which the petitioner claimed, on enhancing the qualification i.e. the Master Degree. The District Inspector rejected the said claim, which was challenged in the said writ-petition. Before we proceed, it would be profitable to quote the order impugned in the instant appeal which runs thus:-

"This is a matter relates to Higher Scale of Pay of the petitioner which has been rejected by the District Inspector of Schools (SE), Murshidabad as appears from his hearing report dated 26.10.2021 which is at page 68 (Annexure – P/17) of the

writ application.

On perusal and consideration of the said report dated 26.10.2021, I do not find any infirmity in the said hearing report annexed to this writ application.

Hence, the instant writ petition is dismissed.

There will be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.”

A point has been taken before us that the said order suffers from infirmity having not provided any reason for dismissal of the writ-petition. On bare perusal of the impugned order, we find such contention to be correct as the impugned order is bereft of any reason. The importance of recording reasons in adversarial system is the hallmark of dispensation of justice. It is the duty of the Court to record the reasons in lucid manner so as to percolate a message for the litigant why his claim has been negated. It further achieve the reflection of a thought process which weighed the Court in not accepting the contention of the petitioner and also helps the Appellate Court to conveniently dispose of the appeal on the parameters of the statutory provisions and the facts involved therein.

In the aforesaid perspective, time and again, it has been highlighted that the reason is the heart and soul of the order without which the body cannot function. The importance of providing reason is basically for achieving the purposes. Firstly, the claim which has been laid

and the defence which is projected can clearly be discerned therefrom and secondly, the 'thought process' or the point which weighed the Court in accepting or rejecting such claim, will further assist the appellate Court in arriving at the conclusive decision either accepting such findings or not. In absence of any reason, it is practically impossible for the appellate Court to guess the 'thought process' which weighed the single Bench to accept the contention of the petitioner. The Apex Court in the case of ***M/s. Kunj Aluminium Private Limited Vs. M/s. Koninklijke Phillips Electronics NV*** reported in **(2011) 14 SCC 595** has succinctly highlighted the importance of providing reasons in the judicial order in the following:

"5. In our opinion this was not the way to dispose off an appeal. The Impugned order is too cryptive. There should have been at least a brief discussion of facts and some reasons. It has been held by this Court that even an order of affirmance must give some reasons, even if brief vide Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney & Ors. 1 JT 2009 (4) SC 519. Hence we set aside the impugned order and remand the matter to the Division Bench for a fresh hearing in accordance with law, expeditiously."

Even the Division Bench of this Court in ***Supratik Ghosh Vs. Pasari Housing Development Private Limited*** reported in **(2000) 1 CHN 614** held:-

"32. In my view, reason is the soul of an order. An order without reason is a body without soul. It is now well-settled in

our judicial discipline that any order passed by the Court should ordinarily be supported by the reasons because the reasons express the thought process of the Court which weighed with the Court to pass such order. Mere quoting a few words from the statute or reiteration of something from the pleading would not amount to reason. I am of the view that the order which is subject matter of the present appeal did not disclose any reason why the interim order was necessary and passed by the Court. In my opinion, an order even if it is of a Court is not supported by any reason that would render the order arbitrary, fanciful and vague. Even an order of a Court cannot be permitted to be arbitrary, fanciful or vague.”

The law as expounded in the above noted decision, leaves no ambiguity that the order bereft of any reason is no order in the eye of law and cannot be sustained. Even the Division Bench of this Court while restating the aforesaid principle has proceeded further to brand the said order as null and void and cannot be allowed to stand.

Such being the position, any order which is bereft of any reason is unsustainable and liable to be interfered by the Appellate Court solely on the ground that the order is lacking reasons while deciding the cause shown in the writ-petition.

The order impugned is hereby **set aside**.

The matter is remitted back to the single Bench for deciding the same after affording an opportunity of hearing to the respective parties and by recording proper reasons.

We have been given to understand that the writ-petition was dismissed on the threshold without inviting the affidavits from the respondents.

Therefore, we direct the respondents to file the affidavit-in-opposition within three weeks from date. Reply thereto, if any, be filed within a week thereafter.

The writ-petition shall thereafter be decided on merits.

With these observations, the **MAT 36 of 2022** as well as the connected application being **CAN 1 of 2022** are **disposed of**.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

