



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order : 19th July, 2023**

+ **W.P.(C) 9109/2023 & CM APPL. 34617/2023 & CM APPL. 34618/2023**

ANCHIT MATHUR Petitioner

Through: **Mr. Adarsh Kr. Tiwari and Mr. Vineet Pathak, Advocates**

versus

UNION OF INDIA & ANR. Respondents

Through: **Mr. Nitinjya Chaudhary, Sr. Panel Counsel with Ms. Theepa, G. P.**

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“a). Quash and set aside the impugned notice bearing no. F. NO. P-24029/300/2022-IPR-VII dated 28.06.2023 for being illegal and arbitrary, thereby violating Article 14 of the Constitution of India. and

b) pass direction directing the respondent not to take any coercive measure against the petitioner in pursuance of impugned Notice dated 28.06.2023.



c. to pass any other appropriate order(s) or direction(s) in favour of the Petitioner which this Hon'ble Court may deem just and proper in the facts and circumstances of the case, in the interest of justice."

2. Learned counsel appearing on behalf of the petitioner submitted that he was working on a contractual basis and his services were terminated without giving show cause notice or without providing any liberty to the petitioner to present his case before the competent authority. He submitted that the petitioner was not given due opportunity to present his case which violates the Article 14 of the Constitution of India and the principle of natural justice.
3. It is submitted that *vide* impugned notice dated 28th June, 2023, the concerned authority did not follow the procedure prescribed under the law and hence, the impugned notice dated 28th June, 2023 is liable to be set aside.
4. *Per contra*, learned counsel for the respondent vehemently opposed the submissions advanced on behalf of the petitioner and the contents made in the petition.
5. It is submitted that *vide* impugned notice dated 28th June, 2023, the petitioner was put on the notice period for 15 days and the impugned Notice was merely a notice to the petitioner and not an impugned final order for his termination.
6. It is submitted that in pursuance to the notice dated 28th June, 2023, the petitioner also submitted his reply and therefore, it is wrong to say that



the petitioner has not been provided an opportunity to present his case before the concerned authority.

7. It is also submitted that after due consideration of the reply given by the petitioner, the competent authority passed an impugned final order dated 18th July, 2023 and the same is not under challenge in the instant petition.

8. Learned counsel for the respondent also placed the final order dated 18th July, 2023 passed by the competent authority which has been taken on record. He also relied upon paragraph 6 of the final order and submitted that the competent authority passed the final order after considering the reply of the petitioner.

9. Heard learned counsel appearing on behalf of the parties and perused the record.

10. It is an admitted fact that in the impugned notice dated 28th June, 2023, the petitioner was put under the notice period for 15 days from the date of issuance of Notice of Termination. The relevant paragraph from the said notice is reproduced herein:

“2. It has been observed that the dedication and commitment offered by Mr. Mathur for performing task assigned to him is not satisfactory. IN view of this with the approval of competent authority in the Department and in light of the Point (xii) of the term and conditions of the aforesaid appointment order, Mr. Mathur is hereby put under the notice period of 15 days (from the date of issue of this Notice) for termination of his contract with the Department.”

11. The Point (ix) of the Terms and Conditions of Employment dated 22nd May 2023 specifically enumerated that the employee has to maintain highest



standards of integrity, transparency, competitiveness, economy and efficiency while working as a consultant. The relevant portion of terms and conditions is as follows:

“ix. He will maintain highest standards of integrity, transparency, competitiveness, economy and efficiency while working as consultant in this Department. If required, he will cooperate fully with any legitimately provided/ constituted investigative body, conducting inquiry into processing or execution of the consultancy contract/ any other matter related with discharge of contractual obligations by the consultant.”

12. It is relevant at this stage to peruse Point (xii) of the Terms and Conditions of Employment which have been taken into consideration by the authority while issuing the Notice of Termination. Point (xii) states that:

“xii. His engagement as a consultant may be terminated at any time by the Department, without assigning any reason thereof by giving him 15 days’ notice. However, in case he wishes to resign, he will be required to give 30 days advance notice or remuneration in lieu thereof before resigning from the engagement.”

13. From the perusal of the Notice of Termination dated 28th June 2023, Point (ix) and Point (xii) of the Terms and Conditions of Employment dated 22nd May 2023, it is clear that though the attributes of integrity, transparency, competitiveness, economy and efficiency were *sine qua non* of the present contract entered by the petitioner, the authority could still terminate the petitioner’s contract even without providing any reasons. The only stipulation for termination of contract of an employee was the supply of



15 days' notice which was duly complied by the authority.

14. It is relevant for this Court at this stage to discuss the essentials of a notice and the due procedure required while providing the same. The Odisha High Court in the case of *Ismail v. State of Orissa*, 1950 SCC OnLine Ori 66, has highlighted two important ingredients of a notice. First, a notice has to lay down the nature of the cause against a person and second, a notice should afford an opportunity to be heard. The Court observed that:

“20. The essentials of procedure, in the minimum, are essentials of notice, opportunities to be heard and a tribunal. Essential of notice requires to apprise the victim of the nature of the cause against him in order to afford him sufficient opportunity to prepare and to make his answer. Opportunity to be heard is the second essential of procedure established by law. To condemn without hearing is repugnant to natural justice, any procedure which does not guard against this requirement is no procedure by law. The essentials of such opportunities do not, however, consist in any particular form or method of hearing. All that is required is a reasonable opportunity to be heard. The opportunity does not guarantee a person a right to an appeal. One hearing is all those is required. Tribunal as the third essential of procedure does not necessarily mean a judicial tribunal. Any impartial tribunal will meet the requirement.”

15. The Hon'ble Supreme Court in the case of *D.K. Yadav vs J.M.A. Industries Ltd.*, (1993) 3 SCC 259, enumerated the cardinal principle of reasonable opportunity of being heard. The Court stated that the major advantage of this principle is the prevention of an arbitrary action on behalf of the authority while adjudicating a case. The Court discussed the principles



of reasonableness, non-arbitrariness and natural justice under Article 14 of the Constitution of India, 1950 observing that:

“8. The cardinal point that has to be borne in mind, in every case, is whether the person concerned should have a reasonable opportunity of presenting his case and the authority should act fairly, justly, reasonably and impartially. It is not so much to act judicially but is to act fairly, namely, the procedure adopted must be just, fair and reasonable in the particular circumstances of the case. In other words application of the principles of natural justice that no man should be condemned unheard intends to prevent the authority from acting arbitrarily affecting the rights of the concerned person.

9. It is a fundamental rule of law that no decision must be taken which will affect the right of any person without first being informed of the case and giving him/her an opportunity of putting forward his/her case. An order involving civil consequences must be made consistently with the rules of natural justice. In Mohinder Singh Gill v. Chief Election Commissioner [(1978) 1 SCC 405 : (1978) 2 SCR 272, 308-F] the Constitution Bench held that ‘civil consequences’ covers infraction of not merely property or personal right but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation everything that affects a citizen in his civil life inflicts a civil consequence. Black's Law Dictionary, 4th edn., page 1487 defined civil rights are such as belong to every citizen of the state or country ... they include ... rights capable of being enforced or redressed in a civil action.... In State of Orissa v. (Miss) Binapani Dei [(1967) 2 SCR 625 : AIR 1967 SC 1269 : (1967) 2 LLJ 266] this Court held that even an administrative order which involves civil consequences must be made consistently with the rules of natural justice. The person concerned must be informed of the case, the evidence in support thereof supplied and must be



given a fair opportunity to meet the case before an adverse decision is taken. Since no such opportunity was given it was held that superannuation was in violation of principles of natural justice.

10. In State of W.B. v. Anwar Ali Sarkar [(1952) 1 SCC 1 : 1952 SCR 284 : AIR 1952 SC 75 : 1952 Cri LJ 510] per majority, a seven-Judge Bench held that the rule of procedure laid down by law comes as much within the purview of Article 14 of the Constitution as any rule of substantive law. In Maneka Gandhi v. Union of India [(1978) 1 SCC 248 : (1978) 2 SCR 621] another Bench of seven Judges held that the substantive and procedural laws and action taken under them will have to pass the test under Article 14. The test of reason and justice cannot be abstract. They cannot be divorced from the needs of the nation. The tests have to be pragmatic otherwise they would cease to be reasonable. The procedure prescribed must be just, fair and reasonable even though there is no specific provision in a statute or rules made thereunder for showing cause against action proposed to be taken against an individual, which affects the right of that individual. The duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the authority which has the power to take punitive or damaging action. Even executive authorities which take administrative action involving any deprivation of or restriction on inherent fundamental rights of citizens, must take care to see that justice is not only done but manifestly appears to be done. They have a duty to proceed in a way which is free from even the appearance of arbitrariness, unreasonableness or unfairness. They have to act in a manner which is patently impartial and meets the requirements of natural justice.”

16. M.P. Jain & S.N. Jain, Principles of Administrative Law (7th Edition, Page No. 319) has elaborated upon the concept of fair hearing and



its link with natural justice. The relevant portion has been reproduced as under:

“Fair hearing does not stipulate that proceedings be as formal as in a Court. Natural justice is not a replica of the Court procedure at the level of adjudicatory bodies. The objective is to ensure a fair hearing to the person whose rights are going to be affected. Natural justice is simple or elementary justice as distinct from complex or technical justice, otherwise much of the justification of having adjudicatory bodies outside the Court system will evaporate in thin air. It is realised on all sides that it is not desirable to fully judicialise the hearing procedures followed by the various adjudicatory bodies. To over judicialise is to undermine. In the construction of statutes establishing administrative agencies and defining their powers, there is little scope for deep rooted shibboleth that into the statute must be read, by lawyer's instinct, the requirement of the trial of a civil suit or the hearing of an appeal by the ordinary Courts of the land. This may result in defeating their obvious purpose.”

17. Explaining the doctrine of *audi alteram partem*, the Hon'ble Supreme Court in the case of **CCT v. Shukla & Bros., (2010) 4 SCC 785**, has observed that:

“10. The increasing institution of cases in all courts in India and its resultant burden upon the courts has invited attention of all concerned in the justice administration system. Despite heavy quantum of cases in courts, in our view, it would neither be permissible nor possible to state as a principle of law, that while exercising power of judicial review on administrative action and more particularly judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three



basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order. This has been uniformly applied by courts in India and abroad.”

18. It is important for this Court to consider the caution rendered by the Hon’ble Supreme Court in the case of ***Board of Mining Examination and Chief Inspector of Mines v. Ramjee, (1977) 2 SCC 256***, where the Court has stated that the principles of natural justice is the key to justice but the Courts cannot have an unnatural expansion of the same and have to utilize the same only in the cases of arbitrariness and unfairness. The Courts should refrain from bending the rules under the garb of natural justice when it is manifest that the procedure has been fair and a reasonable opportunity has been given to a person. The Court observed that:

“13. The last violation regarded as a lethal objection is that the Board did not enquire of the respondent, independently of the one done by the Regional Inspector. Assuming it to be necessary, here the respondent has, in the form of an appeal against the report of the Regional Inspector, sent his explanation to the Chairman of the Board. He has thus been heard and compliance with Regulation 26, in the circumstances, is complete. Natural justice is no unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and



circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt — that is the conscience of the matter.”

19. It is contended by the petitioner throughout the proceedings that he had been denied an opportunity of fair hearing and presenting his case before the authority. He further submitted that the termination is bad in law. It is important for this Court to note that a reply was filed by the petitioner on 3rd July 2023 pursuant to the Notice of Termination dated 28th June 2023.

20. It is also relevant for this Court at this stage to peruse some precedents as illustrations where notices were provided by the authorities and reply/submissions were made by the parties. The Courts in these scenarios have considered such replies/submissions as reasonable opportunities provided to the parties.

21. In the case of ***Cantonment Board v. Mohanlal***, (1996) 2 SCC 23, the Hon’ble Supreme Court observed that a reply was given after the notice. This reply would be in line with the principles of natural justice even though the authority was not inclined to grant relief on the basis of the reply filed by the party. The Court held as under:

“3. It is seen that the Cantonment Board is an elected body represented by the people themselves. When opportunity was given putting on notice of illegal construction made by the respondent, reply thereof was given. The Board had considered



the representation and was not inclined to accede to the request made by the respondent. Accordingly, the resolution passed by the Cantonment Board cannot be faulted as violative of the principles of natural justice.”

22. In the case of ***State of Orissa v. Krishna Stores***, (1997) 3 SCC 246, the Hon’ble Supreme Court considered the fact that an opportunity to file a reply to the notice amounts to a reasonable opportunity of hearing. The Court observed that:

“16. It is next contended that the respondent was not given an opportunity to be heard by the Commissioner. From the facts as set out, it is apparent that the respondent was served with a notice of proposed revision on 21-3-1975. The reasons for such revision were communicated to the respondent on 2-5-1975. The respondent had furnished written submissions to the Commissioner which were considered at the hearing of the case. After furnishing the grounds of revision the hearing of the case was fixed on 7-5-1975. There is nothing on record to show that the respondent wanted more time or had asked for more time. The respondent appeared through his advocate on 7-5-1975 and submitted his written arguments. Thereafter the Commissioner has passed a detailed order on 26-5-1975. Looking to these facts it cannot be said that a reasonable opportunity of hearing was not given to the respondent.”

23. Explaining the relevance of fair hearing, the Hon’ble Supreme Court in ***State Bank of Patiala v. S.K. Sharma***, (1996) 3 SCC 364, has observed that:

“28. The decisions cited above make one thing clear, viz., principles of natural justice cannot be reduced to any hard and fast formulae. As said in Russell v. Duke of Norfolk [(1949) 1



All ER 109 : 65 TLR 225] way back in 1949, these principles cannot be put in a strait-jacket. Their applicability depends upon the context and the facts and circumstances of each case. (See Mohinder Singh Gill v. Chief Election Commr. [(1978) 1 SCC 405 : (1978) 2 SCR 272]) The objective is to ensure a fair hearing, a fair deal, to the person whose rights are going to be affected. (See A.K. Roy v. Union of India [(1982) 1 SCC 271 : 1982 SCC (Cri) 152] and Swadeshi Cotton Mills v. Union of India [(1981) 1 SCC 664] .) As pointed out by this Court in A.K. Kraipak v. Union of India [(1969) 2 SCC 262] , the dividing line between quasi-judicial function and administrative function (affecting the rights of a party) has become quite thin and almost indistinguishable — a fact also emphasised by House of Lords in Council of Civil Service Unions v. Minister for the Civil Service [(1984) 3 All ER 935 : (1984) 3 WLR 1174 : 1985 AC 374, HL] where the principles of natural justice and a fair hearing were treated as synonymous. Whichever the case, it is from the standpoint of fair hearing — applying the test of prejudice, as it may be called — that any and every complaint of violation of the rule of audi alteram partem should be examined. Indeed, there may be situations where observance of the requirement of prior notice/hearing may defeat the very proceeding — which may result in grave prejudice to public interest. It is for this reason that the rule of post-decisional hearing as a sufficient compliance with natural justice was evolved in some of the cases, e.g., Liberty Oil Mills v. Union of India [(1984) 3 SCC 465] . There may also be cases where the public interest or the interests of the security of State or other similar considerations may make it inadvisable to observe the rule of audi alteram partem altogether [as in the case of situations contemplated by clauses (b) and (c) of the proviso to Article 311(2)] or to disclose the material on which a particular action is being taken. There may indeed be any number of varying situations which it is not possible for anyone to foresee. In our respectful opinion, the principles emerging



from the decided cases can be stated in the following terms in relation to the disciplinary orders and enquiries: a distinction ought to be made between violation of the principle of natural justice, audi alteram partem, as such and violation of a facet of the said principle. In other words, distinction is between “no notice”/“no hearing” and “no adequate hearing” or to put it in different words, “no opportunity” and “no adequate opportunity”. To illustrate — take a case where the person is dismissed from service without hearing him altogether (as in Ridge v. Baldwin [1964 AC 40 : (1963) 2 All ER 66 : (1963) 2 WLR 935]). It would be a case falling under the first category and the order of dismissal would be invalid — or void, if one chooses to use that expression (Calvin v. Carr [1980 AC 574 : (1979) 2 All ER 440 : (1979) 2 WLR 755, PC]). But where the person is dismissed from service, say, without supplying him a copy of the enquiry officer's report (Managing Director, ECIL v. B. Karunakar [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704]) or without affording him a due opportunity of cross-examining a witness (K.L. Tripathi [(1984) 1 SCC 43 : 1984 SCC (L&S) 62]) it would be a case falling in the latter category — violation of a facet of the said rule of natural justice — in which case, the validity of the order has to be tested on the touchstone of prejudice, i.e., whether, all in all, the person concerned did or did not have a fair hearing. It would not be correct — in the light of the above decisions to say that for any and every violation of a facet of natural justice or of a rule incorporating such facet, the order passed is altogether void and ought to be set aside without further enquiry. In our opinion, the approach and test adopted in B. Karunakar [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] should govern all cases where the complaint is not that there was no hearing (no notice, no opportunity and no hearing) but one of not affording a proper hearing (i.e., adequate or a full hearing) or of violation of a procedural rule



or requirement governing the enquiry; the complaint should be examined on the touchstone of prejudice as aforesaid.”

24. After considering the reply filed by the petitioner in pursuance of the impugned notice dated 28th June, 2023, the concerned authority passed a detailed and reasoned order on 18th July, 2023 which is admittedly not challenged in the instant petition before this Court. The authority has passed a reasoned order after perusing the reply filed by the petitioner. The relevant portion of the order dated 18th July 2023 is reproduced herein:

“6) In view of the above, in light of the observations made by this Department in consideration of the Reply of Notice forwarded by Mr. Mathur by re-evaluating the tenure of Mr. Anchit Mathur from 11.05.2023 to 12.07.2023 in this Department and considering the gravity of the aforementioned issues, it is decided by Competent Authority in this Department that the decision to terminate the employment of Mr. Anchit Mathur shall be considered as final.”

25. It is established law that a reasoned order is a safeguard against arbitrariness and unfairness. **M.P. Jain (Supra)** has elaborately dealt with the relevance of a reasoned order. The main purpose of a reasoned order is to reinforce the principle that justice should not only be done but should also seem to be done. The relevant passages are reproduced below:

“As Lord Denning has emphasized in Breen v. A.E.U., (1971) 2 QB 175 the giving of reasons for a decision is one of the fundamentals of good administration. It constitutes a safeguard against arbitrariness on the part of the decision-maker. Articulating the bases of a decision can improve the quality of decision making in a number of significant ways. First, an



administrative officer develops a habit of mind to look at things from the standpoint of policy and administrative expediency. This mental attitude does not change from function to function. If he is made to give reasons for his decision, it will impose some restrictions on him in a matter involving personal rights. Secondly, if an adjudicator is obligated to give reasons for his conclusions, it will make it necessary for him to consider the matter carefully. The condition to give reasons introduces clarity, ensures objectivity and impartiality on the part of the decision-maker and minimizes unfairness and arbitrariness for "compulsion of disclosure guarantees consideration". The adjudicator will have to give such reasons for his decisions as may be regarded fair and legitimate by a reasonable man and thus it will minimize chances of irrelevant or extraneous considerations from entering his decisional process, and it will also minimize chances of unconscious infiltration of personal bias or unfairness in his conclusions. The mere fact of explaining to others the bases upon which a decision has been reached conduces to a careful marshalling and weighing of evidence and arguments by the decision-maker. Giving of reasons for his decision is a guarantee that the decision-maker has applied his mind to the facts and circumstances of the case and has not reached his decision mechanically or arbitrarily, or on irrelevant considerations; that he has reached the decision according to law and not according to caprice, whim or fancy, or on grounds of policy or expediency.. In this way, giving of reasons acts as a substantial check upon misuse of power by the decision-maker. The obligation to give reasons operates as a deterrent against arbitrary action of the adjudicatory bodies, and very much improves the quality of decision making, and instils in adjudicatory bodies a greater sense of responsibility. It very much reduces the possibility of unscrupulous officials abusing adjudicatory powers conferred on them. Secondly, the existence on file of earlier reasoned decisions is likely to assist the decision-maker in the future and



to encourage the development of clear policies and consistency. Thirdly, the publication of reasons may increase public confidence in the administrative process, particularly, by assuring those adversely affected by a decision that it has not been made arbitrarily and that the relevant points which may support a contrary view have not been ignored but given due consideration. By looking at reasons, parties may know why they lost the case. Giving of reasons ensures that the hearing was not simply a meaningless charade. Unless an adjudicatory body is required to give reasons and make findings of fact, indicating the evidence upon which it relied, there is no way of knowing whether the concerned body genuinely addressed itself to the arguments and evidence advanced at the hearing. It is a well known principle that justice should not only be done but should also seem to be done. Unreasoned decisions may be just but they may not appear to be just to those who read them. Reasoned conclusions, on the other hand, will have the appearance of justice. Fourthly, the Supreme Court has emphasized that the Administration is under a general duty to act fairly and fairness founded on reason is the essence of the right of equality. Fifthly, under many laws, decisions of a lower adjudicatory body are appealable to, or are subject to revision by, a higher adjudicatory authority. An individual who is entitled to have the decision reviewed by a higher administrative tribunal, may be unable to exercise this right effectively unless he knows the bases upon which the original decision rested. In the absence of reasons, the statutory right of appeal may become nugatory. Summary orders by lower authorities reduce (the appeal provisions to silence. Failure to give reasons amounts, in substance, to depriving the affected party of the right of appeal or revision. Sixthly, giving of reasons is an aspect of the right of knowing and a part and parcel of the concept of open government. Giving of reasons thus gives satisfaction to the party against whom the decision is made. Justice should not only be done but should also seem to



be done. An unreasoned decision may be just but may not appear to be so to the person affected. A reasoned decision, on the other hand, has the appearance of fairness and justice. Seventhly, the task of a reviewing Court is made easier if the tribunal has stated the reasons for its decision. The reasons may persuade the Court that the decision was justified in the light of the true nature of the problems with which the tribunal was dealing. Alternatively, of course, the Court may infer from the reasons or findings of fact that the tribunal had in some important way misunderstood its statutory mandate, or that the evidential basis for a finding of fact was quite inadequate. Absence of reasons may restrict the Court's capacity to effectively discharge its function of ensuring that the decision was made on legally valid grounds and thus vitiate the right of review. In the absence of a speaking order, i.e. an order which speaks for itself or tells its own story, or, in other words, give reasons, the Courts will be at a loss to understand the working of the mind of the concerned adjudicatory body, and so it will not be possible for the Court to decide whether there is any legitimate ground for the Court to interfere with the decision of the body. The Court's supervisory function can be discharged effectively only when the decision-making authority reveals its own mind and thought processes. In short, the obligation to give reasons for their decisions is bound to improve the quality of adjudication by adjudicatory for it is bound to instil in them a greater sense of responsibility and care in disposing of cases coming before them for adjudication. Not giving of reasoned decisions may be convenient for the authorities but it certainly does not promote good administration. Failure to give reasons does little to instil public confidence in the correctness of the decisions rendered by adjudicatory bodies. The Supreme Court has observed in this regard:

"Reasoned decision is not only for the purpose of showing that the citizen is receiving justice, but also a valid discipline for the



tribunal itself. Therefore, statement of reasons is one of the essentials of justice.”

26. In ***Nandlal Tejmal Kothari v. Inspecting Assistant Commissioner of Income-tax, 1997 (3) Scale 592***, the Hon’ble Supreme Court observed that the adjudicatory authority is obligated to record the reasons. This recording of reasons serves a two-fold purpose:

“1. that the "party aggrieved" in the proceeding before the appropriate authority acquires knowledge of the reasons and in a proceeding before the High Court or the Supreme Court (since there is no right of appeal or revision), it has an opportunity to demonstrate that the reasons which persuaded the authority to pass an order adverse to his interest were erroneous, irrational or irrelevant, and
2. that the obligation to record reasons and convey the same to the party concerned operated as a deterrent against possible arbitrary action by the quasi-judicial or the executive authority invested with judicial powers.”

27. The Hon’ble Supreme Court in ***Sarat Kumar Dash v. Biswajit Patnaik, 1995 Supp (1) SCC 434***, has explained that the omission to record reasons results in violation of principles of natural justice. The Court further stated that a reasoned order is a link between the author of the order and the order itself. The Court observed that:

“11. The next question is whether omission to record reasons amounts to violation of the principles of natural justice. The principle of audi alteram partem is a basic concept of the principle of natural justice. The omnipotency inherent in the doctrine is that no one should be condemned without being heard or given an opportunity to the person affected to present



his case before taking the decision or action. In the field of administrative action, this principle has been applied to ensure fair play and justice to the affected person. However, the doctrine is not a cure to all the ills in the process. Its application depends upon the factual matrix to improve administrative efficiency and expediency and to meet out justice. The procedure adopted would be just and fair. The reasons are links between maker of the order or the author of the decision and the order itself. The record is called to consider whether he has given due consideration to the facts placed before him before he arrives at the decision. Therefore, the reasons in the order or found from the record bridges the link between the maker of the order and the order itself or decision. Therefore the natural justice is not a rigid nor an inflexible rule. It should be applied to a given fact situation, depending upon the background of the statutory provisions, nature of the right which may be affected and the consequences that may entail. It is already seen that the Commission evolved the objective criteria in awarding marks to the given grading of the candidates and on its basis recommended their cases for promotion. In R.S. Dass case [1986 Supp SCC 617 : (1987) 2 ATC 628] this Court held that the grading itself is a reason and no separate reasons in that behalf in arranging the order of merit need be given. The grading is to obviate the need to record reasons. The finding of the Tribunal that the selection by PSC without recording reasons or need to record separately the reasons for evolving the criteria for selection is also clearly illegal.”

28. Hence, after perusing the Notice of Termination, Terms and Conditions of Employment, and the reply filed by the petitioner, this Court is of the view that a reasonable opportunity was provided to the petitioner to present his case. A reply was filed by the petitioner which was duly



considered by the concerned authority in passing a reasoned order terminating the petitioner from his services.

29. At this juncture, this Court does not find any cogent reasons for further adjudication in the instant petition as the final order has already been passed by the competent authority which has not been challenged in the instant petition.

30. Accordingly, the instant petition stands dismissed along with pending applications, if any.

31. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

JULY 19, 2023

gs/ds

Click here to check corrigendum, if any