

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:058615

(106)

CM-3679-C-2021 in/and
RSA-721-2021

Date of Decision : April 30, 2024

The Haryana Vidyut Parsaran Nigam Limited and others
.. Appellants

Versus

Lallan Parshad

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Padamkant Dwivedi, Advocate, for the appellants.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-3679-C-2021

Present application has been filed for condonation of delay of 56 days in filing the appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and delay of 56 days in filing the appeal is condoned.

RSA-721-2021

1. Present appeal has been filed challenging the judgments and decrees of the Courts below by which, the suit filed by the respondent-plaintiff qua his challenge to the orders dated 18.02.2014 and 25.03.2014, has been allowed.

2. It may be noticed that by the impugned orders, the benefit of regularization given from the initial date of appointment of the respondent-plaintiff has been withdrawn. The Courts below while allowing the claim of the respondent-plaintiff have recorded the finding that no reason has been

given in the impugned order for the withdrawal of the said benefits and further benefit of regularization has been withdrawn by the appellant-Department without giving any opportunity of hearing to the respondent-plaintiff. Further, a finding has also been recorded that the similarly situated employees have been granted the benefit of regularization of their services from the date of initial appointment.

3. On being asked to rebut the said finding on the basis of the evidence so as to prove the said findings perverse, learned counsel for the appellants has not been able to show as to how, the findings recorded by the Courts below are perverse to the facts and evidence on record.

4. Learned counsel for the appellants argues that in the facts and circumstances of the present case, once the benefit of regularization from the date of initial appointment was withdrawn, the Courts below should not have interfered with the same as the same was within the jurisdiction of the department concerned.

5. It is a settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.457 of 1970 titled as Mahabir Prasad Santosh Kumar vs. State of U.P and others, decided on 02.04.1970*** that no order can be passed without giving reasons for passing the said order. decided on 02.04.1970. Relevant paragraphs of the said judgment are as under:-

"5. The case discloses a disturbing state of affairs. The authorities have disclosed by their conduct a reckless disregard of the rights of the appellants. The order passed by the District Magistrate cancelling the licences was quasi-judicial; it could be made only on a consideration of the charges and the explanation given by the appellants. That necessarily implied that the District Magistrate had to give some reasons why he held the charges proved, and the

explanation unacceptable. When the matter was carried in appeal, the State Government could at least have acted with some awareness that citizens have rights which must be protected against possible arbitrary action by subordinate officials. The District Magistrate is not made the final authority in cancelling the licence. The appellants had a right to carry on their business, and as they held a licence to carry on their business they could be deprived of their right by an executive order supported by good and adequate reasons. The relevant rules granted a right of appeal to the State Government against that order, and that implied that the aggrieved party must have an opportunity to convince the State Government that the order passed by District Magistrate was erroneous. That right could be effectively exercised if reasons be recorded by the District Magistrate and supplied to the aggrieved party. If the aggrieved party is not supplied the reasons, the right to appeal is an empty formality.

6. *From the materials on the record it cannot be determined as to who considered the appeal addressed to the State Government, and what was considered by the authority exercising power on behalf of the State Government. The practice of the executive authority dismissing statutory appeals against orders which prima facie seriously prejudice the rights of the aggrieved party without giving reasons is a negation of the rule of law. This Court had occasion to protest against this practice in several decisions : See Madhya Pradesh Industries Ltd. v. Union of India, (1966)1 SCR 466 (per Subba Rao, J.); Bhagat Raja v. Union of India, (1967)3 SCR 302; State of Madhya Pradesh v. Narsinghdas Jankidas Mehta, C.A. No. 681 of 1966, decided on 29-4-1969(SC); State of Gujarat v. Patel Raghav Nath, C.A. No. 723 of 1966, decided on 21-4-1969 and Prag Das Umar Vaishya v. Union India, C.A. No. 657 of 1965, decided on 17-8-1967 (SC). The power of the District Magistrate was quasi-judicial : exercise of the power of the State Government was subject to the supervisory power of the High Court under Article 227 of the Constitution and of the*

appellate power of this Court under Article 136 of the Constitution. The High Court and this Court would be placed under a great disadvantage if no reasons are given, and the appeal is dismissed without recording and communicating any reasons".

6. A bare perusal of the impugned orders would show that not even a single reason has been given for withdrawing the benefit of regularization from the initial date from the respondent-plaintiff even though the facts and evidence, which has come on record clearly shows that the said benefit has been extended to the similarly situated employees.

7. As learned counsel for the appellants has not been able to point out any perversity in the judgments and decrees of the Courts below, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

8. Dismissed.

April 30, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No