

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17506 of 2023

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Arvind Kumar Singh Son of Kapildeo Singh, Resident of village- Maripur,
Police Station - Madhuban in the district of East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, East Champaran at Motihari.
4. The Dy. Collector Land Reforms, East Champaran, at Motihari.
5. The Child Development Project Officer, Chakiya, District - East Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar
For the Respondent/s : Mr.Pankaj Kumar (Sc 12)
Mr. Sudama Kumar, AC to Sc 12

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 07-10-2025 Heard the parties.

2. The present writ application has been filed on
behalf of the petitioner for the following relief:-

*(i)To issue rule in the nature of
certiorari to quash the order passed by the District
Magistrate/ Collector, East Champaran at
Motihari issued vide Memo No.1116 dated
16.08.2021 and the order dated 14.08.2023 passed
by the Court of Commissioner, Tirhut Division,
Muzaffarpur in Service Appeal No. 78 of 2021, by
which the order passed by the Collector/ District
Magistrate, East Champaran at Motihari has been
upheld and the appeal filed against the order of the*



Collector has been rejected.

3. The brief facts of the case are that the petitioner, while in service, was posted as clerk under the Child Development Project Office, Chakiya and vide office order contained in Memo No. 872 dated 23.02.2019, he was suspended on some charges and during the period of suspension, his head office was fixed at Child Development Project Office, Mehsi and accordingly an enquiry was conducted by the Addl. Collector, East Champaran, who after holding enquiry submitted enquiry report and on such report, the Collector/District Magistrate exonerated the petitioner from the charges and dropped the proceeding vide Memo No.1115 dated 16.08.2021. Later on, vide letter No 328 dated 20.06.2020 issued by the Child Development Project Officer, Chakiya, forwarded for holding enquiry to the Dy Collector Land Reforms who again framed charge against the petitioner and a copy served upon him and the said charge was forwarded for departmental enquiry vide Memo No. 1973 dated 20.09.2020 to the Dy. Development Commissioner, Sadar at Motihari as conducting Officer and, accordingly a show cause was filed by the petitioner in the said enquiry on 01.12.2020.

4. According to letter no.347 dated 29.07.2021, the petitioner was issued a show cause with regard to the charges.



The petitioner refuted the charges levelled against him. In the said enquiry, the Dy. Collector Land Reforms-cum-Conducting Officer submitted enquiry report dated 14.05.2021 holding the petitioner guilty for charges levelled against him and merely on the basis of the report submitted by the Dy. Collector Land Reforms, the District Magistrate-cum- Disciplinary Authority vide Memo No. 1116 dated 16.08.2021 awarded punishment of reversion in lowest pay of Clerical cadre forever.

5. Learned counsel for the petitioner submits that from perusal of the enquiry report, it would transpire that the Dy. Collector Land Reforms has not taken any step to verify the facts from the record and the persons concerned, who were custodian of the file and the authority into this matter.

6. The further contention of the learned counsel for the petitioner is that the Dy. Collector Land Reforms in a mechanical manner submitted enquiry report mainly on the ground that a complaint was filed about "Chher Chhar" at the time of appointment of a candidate in which there was some variation in receiving the application and marksheet, when its ultimate beneficiary was Rekha Kumari, who was not examined in course of enquiry and was the actual person to deny and accept the objection regarding her application for the purpose of



appointment.

7. He further submits that similarly other records and the persons concerned were not examined to substantiate the charges except the allegation supposed to have been committed by the petitioner but the enquiry officer submitted his report to the disciplinary authority.

8. He further submits that the District Magistrate without discussing the evidences and the materials available on record in a casual manner, awarded punishment to the petitioner for payment of lowest salary/basic salary of the cadre of clerk on permanent basis. The appeal filed by the petitioner, vide Service Appeal No. 78 of 2021 before the Commissioner, Tirhut Division, Muzaffarpur, vide order dated 14.08.2023 was rejected in a mechanical manner.

9. Learned counsel for the petitioner further submits that from perusal of the impugned orders, it will appear that the disciplinary authority as well as appellate authority had not applied their mind on the facts and circumstances of the charges and the materials available on record and have passed the orders in a mechanical manner.

10. Learned counsel for the petitioner further submits that the the petitioner being a regular and old employee,



who was never been subjected to any departmental proceeding throughout his service career, has been held guilty when he was going to retire on 30.11.2024 and the order of imposing penalty and rejection of appeal by the concerned authority is wholly illegal, unjustified and not in accordance with law.

11. Learned counsel for the the State, relying upon the counter affidavit, has opposed the application of the petitioner and has supported the impugned orders.

12. I have heard and considered the submissions of the parties.

13. 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. A disciplinary authority acting in a *quasi-judicial* capacity, arriving at an adverse finding to impose a punishment must support the same with cogent reasons. The orderly functioning of the process of review requires that the grounds upon which the administrative agency acted, be clearly



disclosed and adequately sustained. The importance of passing a reasoned order by such an authority is *sine qua non* and numerous judicial precedents have time and again underscored the imperative and fundamental importance of recording the reasons. It may be gainful to refer to the authoritative pronouncements from the Hon'ble Supreme Court, which have cemented and crystallized the position of law on this aspect.

14. The Constitution Bench of the Hon'ble Supreme Court in the case of *S.N. Mukherjee v. Union of India, reported as (1990) 4 SCC 594*, while considering one of the questions, whether there is a general principle of law which requires an administrative authority to record the reasons for its decision, had held as under:-

36. Reasons, when recorded by an administrative authority in an order passed by it while exercising quasi-judicial functions, would no doubt facilitate the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also weighed with this Court in holding that an administrative authority must record reasons for its decision, are of no less significance. These considerations show that the recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded



should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.

37. Having considered the rationale for the requirement to record the reasons for the decision of an administrative authority exercising quasi-judicial functions we may now examine the legal basis for imposing this obligation. While considering this aspect the Donoughmore Committee observed that it may well be argued that there is a third principle of natural justice, namely, that a party is entitled to know the reason for the decision, be it judicial or quasi-judicial. The Committee expressed the opinion that “there are some cases where the refusal to give grounds for a decision may be plainly unfair; and this may be so, even when the decision is final and no further proceedings are open to the disappointed party by way of appeal or otherwise” and that “where further proceedings are open to a disappointed party, it is contrary to natural justice that the silence of the Minister or the Ministerial Tribunal should deprive them of the opportunity”. (p. 80) Prof. H.W.R. Wade has also expressed the view that “natural justice may provide the best rubric for it, since the giving of reasons is required by the ordinary man's sense of justice”. (See Wade, Administrative Law, 6th edn. p. 548.) In *Siemens*



Engineering Co. case [(1976) 2 SCC 981 : 1976 Supp SCR 489] this Court has taken the same view when it observed that “the rule requiring reasons to be given in support of an order is, like the principles of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process”. This decision proceeds on the basis that the two well known principles of natural justice, namely (i) that no man should be a judge in his own cause, and (ii) that no person should be judged without a hearing, are not exhaustive and that in addition to these two principles there may be rules which seek to ensure fairness in the process of decision-making and can be regarded as part of the principles of natural justice. This view is in consonance with the law laid down by this Court in A.K. Kraipak v. Union of India [(1969) 2 SCC 262 : (1970) 1 SCR 457] wherein it has been held : (SCR pp. 468-69 : SCC p. 272, para 20)

*“The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules namely : (i) no one shall be a judge in his own cause (nemo debet esse judex propria causa), and (ii) no decision shall be given against a party without affording him a reasonable hearing (audi alteram partem). Very soon thereafter a **third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably.** But in the course of years many more subsidiary rules came to be added to the rules of natural justice.”*

38. A similar trend is discernible in the decisions of English courts wherein it has been held that natural justice demands that the decision should be based on some evidence of probative value. (See : R. v. Deputy Industrial Injuries Commissioner ex p. Moore [(1965) 1 QB 456 : (1965) 1 All ER 81] ; Mahon v. Air New Zealand Ltd. [1984 AC 648 : (1984) 3 All ER 201])

39. The object underlying the rules of natural justice “is to prevent miscarriage of justice”



and secure “fair play in action”. As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement. It may do so by making an express provision to that effect as those contained in the Administrative Procedure Act, 1946 of U.S.A. and the Administrative Decisions (Judicial Review) Act, 1977 of Australia whereby the orders passed by certain specified authorities are excluded from the ambit of the enactment. Such an exclusion can also arise by necessary implication from the nature of the subject matter, the scheme and the provisions of the enactment. The public interest underlying such a provision would outweigh the salutary purpose served by the requirement to record the reasons. The said requirement cannot, therefore, be insisted upon in such a case.

40. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to



record the reasons for its decision.

15. Summarizing the principles of law, the Hon'ble Supreme Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan, reported as (2010) 9 SCC 496***, had held as under -

“46. The position in the United States has been indicated by this Court in S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] in SCC p. 602, para 11 : AIR para 11 at p. 1988 of the judgment. This Court held that in the United States the courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as “the courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review”. In S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] this Court relied on the decisions of the US Court in Securities and Exchange Commission v. Chenery Corp. [87 L Ed 626 : 318 US 80 (1942)] and Dunlop v. Bachowski [44 L Ed 2d 377 : 421 US 560 (1974)] in support of its opinion discussed above.”

“47. Summarizing 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 Anya 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”.

16. Therefore, what is crystallized by a plethora of authoritative judicial pronouncements is that recording of reasons by a disciplinary authority, acting in a *quasi-judicial* capacity, is fundamental to discern whether the said authority had applied his mind before arriving at a conclusion/finding or not. A bald and mechanical reiteration of allegations or the factual matrix devoid of any cogent reasons supporting the



findings/conclusion is wholly insufficient. A cryptic and non-speaking order is antithesis to principles of natural justice and therefore the same cannot be sustained.

17. Accordingly, this application is allowed and the order passed by the District Magistrate/ Collector, East Champaran at Motihari issued vide Memo No.1116 dated 16.08.2021 and the order dated 14.08.2023 passed by the Court of Commissioner, Tirhut Division, Muzaffarpur in Service Appeal No. 78 of 2021, are hereby quashed.

(Sandeep Kumar, J)

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