

U.P.S.R.T.C.

V.

JAGDISH PRASAD GUPTA
Civil Appeal No. 1883 of 2009

MARCH 25, 2009

[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]

Judgment/Order: Non-reasoned order – Dismissal of writ petition without indicating reasons – Propriety of – Held: Not proper – On plainest consideration of justice, High Court ought to have set forth its reasons, howsoever brief, in its order indicative of application of its mind, all the more when its order was amenable to further avenue of challenge – Absence of reasons rendered High Court’s judgment not sustainable – Supreme Court has extraordinary power under Article 136 and can reject appeals at SLP stage invariably without assigning reasons and analogy cannot be made with such powers while dealing with writ petition– Constitution of India, 1950 – Article 136, 122.

Constitution of India, 1950: Article 136 – Scope of.

The respondent-workman was found guilty of charges levelled and was removed from service. Labour court directed re-instatement with 50% back wages. The writ petition was filed which was dismissed summarily by High Court after issuance of notice to the respondent who filed his reply.

In the instant appeal, stand of the appellant was that the order of High Court was non-reasoned.

Disposing of the appeal and remitting the matter to High Court, the Court

HELD: 1.1. The High Court initially issued notice and reply was filed by the respondent. After that High Court

A dismissed the writ petition in a summary manner. It cannot
be said that the various aspects highlighted by the
appellant were without any substance. The effect of it was
to be enquired in the writ petition which apparently was
not done. No reason was indicated. The dismissal of the
B writ petition in such summary manner without indicating
any reason was clearly indefensible. [Paras 6,7] [1157-B-D]

1.2. Reasons introduce clarity in an order. On plainest
consideration of justice, the High Court ought to have set
forth its reasons, howsoever brief, in its order indicative
C of an application of its mind, all the more when its order is
amenable to further avenue of challenge. The absence of
reasons has rendered the High Court's judgment not
sustainable. [Para 8] [1157-E]

D *Breen v. Amalgamated Engineering Union (1971) 1 All
E.R. 1148; Alexander Machinery (Dudley) Ltd. v. Crabtree
(1974) LCR 120; State of Orissa v. Dhaniram Luhar (2004) 5
SCC 568 – referred to.*

2. The attempt to draw an analogy on the power of
E this Court under Article 136 of the Constitution of India,
1950 and the practice of rejecting appeals at the SLP stage
invariably without assigning reasons with the one to be
exercised while dealing with a writ petition has no meaning
and is illogical. First of all, High Court is not the final court
F in the hierarchy and its orders are amenable to challenge
before this Court, unlike the obvious position that there
is no scope for any further appeal from the order made
declining to grant special leave to appeal. Article 136 of
the Constitution does not confer any right of appeal in
G favour of any party as such and it is not that any and every
error is envisaged to be corrected in exercising powers
under Article 136. The powers of this Court under Article
136 are special and extraordinary and the main object is
to ensure that there has been no miscarriage of justice.
That cannot be said to be the same with a writ petition.
H [Para 11] [1159-A-D]

Dr. Vishnu Dev Sharma v. State of U.P. & Ors. (2008) 3 SCC 172 – relied on. A

Case Law Reference

(1971) 1 All E.R. 1148	referred to	Para 9	
(1974) LCR 120	referred to	Para 9	B
(2004 (5) SCC 568	referred to	Para 10	
(2008) 3 SCC 172	relied on	Para 12	

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1883 of 2009 C

From the Judgement and Order dated 09.11.2005 of the Hon'ble High Court of Judicature at Allahabad, in Civil Misc. Writ Petition No. 52959 of 2005.

Anuvrat Sharma, for the Appellants. D

Rachna Srivastava, Mohd. Noorullah, Himani J., for the Respondents.

The Judgement of the Court was delivered by E

DR. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Allahabad High Court dismissing the Writ Petition filed by the appellant. Challenge in the writ petition was to the order passed by the Presiding Officer, Labour Court, Gorakhpur. F

3. Background facts as projected by the appellant are as follows: G

Respondent was posted as Booking Clerk at Gorakhpur Station. He was found involved in serious acts of misconduct, not taking interest in the job, carelessness in performance and usually coming late to office and remaining absent and not H

A complying with orders. In this regard several letters were written by the senior Foreman directing the respondent to improve his conduct and warning him that unless he improved himself, necessary orders shall be passed. He was asked to make certain clarifications by letter dated 24.4.1980 to which he did not submit a reply. He was suspended from service on 26.7.1980 and was asked to place his defence. Since his reply was found not satisfactory, a decision was taken to conduct an enquiry on 30.8.1980. A charge sheet was issued to him and he was asked to furnish reply in respect of the following charges:

- C
1. for not maintaining vehicle wise register as per rules and not making up to date entries in the same.
 2. For not taking interest in work, carelessness in performance and not producing the requisite clarifications when asked to do so by superiors.\
 3. For marking his presence on the attendance register on a day when he remained absent and
 4. Willfully causing disappearance of departmental records.
- E

A departmental enquiry was initiated and the Enquiry officer after concluding the same submitted the enquiry report. During enquiry the charges leveled against the respondent were found to be proved and as such he was removed from service by order dated 30.7.1988. Respondent filed an application in 2002 before the Presiding Officer, Labour Court, Gorakhpur which was listed as Adjudication Case No.25 of 2002. In course of examination by the Labour Court on 28.1.2004, respondent admitted that certain entries in register entered by him could not be made. The Labour Court directed re-instatement with 50% backwages. The writ petition was filed which was dismissed summarily after issuance of notice to the respondent who filed his reply.

H 4. The basic stand of the appellant is that the order is non-

reasoned and the High Court had not even considered the various stands highlighted by the appellant. A

5. Learned counsel for the respondent on the other hand supported the order of the High Court.

6. It appears that the High Court had initially issued notice and reply was filed by the respondent. After that the High Court has dismissed the writ petition in a summary manner. It cannot be said that the various aspects highlighted by the appellant were without any substance. What would have the effect of it was to be enquired in the writ petition which apparently has not been done. The order reads as follows: B C

“Impugned order does not suffer from any infirmity warranting interference by this Court. Consequently writ petition is dismissed.”

7. As the quoted portion of the order goes to show that practically no reason was indicated, the dismissal of the writ petition in such summary manner without indicating any reason is clearly indefensible. D

8. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable. E F

9. Even in respect of administrative orders Lord Denning M.R. in *Breen v. Amalgamated Engineering Union* (1971 (1) All E.R. 1148) observed “The giving of reasons is one of the fundamentals of good administration”. In *Alexander Machinery (Dudley) Ltd. v. Crabtree* (1974 LCR 120) it was observed: “Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at”. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the G H

- A “inscrutable face of the sphinx”, it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The “inscrutable face of a sphinx” is ordinarily incongruous with a judicial or quasi-judicial performance.

10. This Court in *State of Orissa v. Dhaniram Luhar (2004 (5) SCC 568)* has while reiterating the view expressed in the earlier cases for the past two decades emphasised the necessity, duty and obligation of the High Court to record reasons in disposing of such cases. The hallmark of a judgment/order and exercise of judicial power by a judicial forum is to disclose the reasons for its decision and giving of reasons has been always insisted upon as one of the fundamentals of sound administration justice-delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. Any judicial power has to be judiciously exercised and the mere fact that discretion is vested with the court/forum to exercise the same either way does not constitute any license to exercise it at whims or fancies and arbitrarily as used to be conveyed by the well-known saying: “varying according to the Chancellor’s foot”. Arbitrariness has been always held to be the anathema of judicial exercise of any power, all the more so when such orders are amenable to challenge further before higher forums. Such ritualistic observations and summary disposal which has the effect of, at times, cannot be said to be a proper and judicial manner of disposing of judiciously the claim before the courts. The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter

before courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind.

11. The attempt to draw an analogy on the power of this Court under Article 136 of the Constitution of India, 1950 (in short the 'Constitution') and the practice of rejecting appeals at the SLP stage invariably without assigning reasons with the one to be exercised while dealing with a writ petition has no meaning and is illogical. First of all, the High Court is not the final court in the hierarchy and its orders are amenable to challenge before this Court, unlike the obvious position that there is no scope for any further appeal from the order made declining to grant special leave to appeal. It has been on more than one occasion reiterated that Article 136 of the Constitution does not confer any right of appeal in favour of any party as such and it is not that any and every error is envisaged to be corrected in exercising powers under Article 136 of the Constitution of India. The powers of this Court under Article 136 of the Constitution are special and extraordinary and the main object is to ensure that there has been no miscarriage of justice. That cannot be said to be the same with a writ petition.

12. The above position is highlighted in *Dr. Vishnu Dev Sharma v. State of U.P. & Ors.* [2008(3) SCC 172].

13. In the circumstances the impugned order of the High Court is clearly unsustainable and is set aside. The matter is remitted to the High Court to hear the Civil Misc. Writ Petition No. 52959 of 2005 to be disposed of by a reasoned order. There shall be no order as to costs.

14. Appeal is disposed of accordingly.

D.G.

Appeal disposed of.