

B

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Decision : 27.11.2003

O. A. No. 184/2002

Hon'ble Mr. Justice V. S. Aggarwal, Chairman.
Hon'ble Mr. G. R. Patwardhan, Administrative Member.

Colvin Sunil Singh S/o Shri Bellicent Singh,
R/o Plot No. 141, Baldev Nagar,
Jodhpur 342003.

... Applicant.

(Shri Manoj Bhandari counsel for the applicant).

Versus

1. Union of India through
the Director General,
Indian Council of Medical Research
Ansari Nagar,
New Delhi.
2. The Dy. Director and
Officer Incharge of Desert Medicine
Research Centre, New Pali Road,
Post Bag No. 122, Jodhpur.
3. The Director and over all
Incharge, National Institute of
Occupational Health, Meghni Nagar,
Ahmedabad 380016.
4. Dr. S. K. Bansal, Assistant Director,
Desert Medicine Research Centre,
Jodhpur.

... Respondents.

(Mr. Vinit Mathur counsel for respondent No.1 to 3.
None present for respondent No.4.)

ORDER (ORAL)

JUSTICE V. S. AGGARWAL

The applicant assails the order passed by the disciplinary authority dated 31.08.2000 and of the appellate authority dated 23.07.2001. Needless to state that the disciplinary authority had imposed a penalty under Rule 14 of the Central Civil Services



(Signature)

14

(Classification, Control & Appeal) Rules, 1965 reducing the salary of the applicant in the time scale of pay of Rs.4000-6000 from Rs.5300/- to Rs.5000/- for a period of three years with cumulative effect alongwith postponement of the future increments of pay. There was no interference in appeal.

2. Though certain submissions have been made with respect to the controversy on merits and also pertaining to the nature of the charges and the absence, but for the present, we are not delving into the same. The reason being that the learned counsel for the applicant at the threshold has even referred to the fact that the appeal had been decided without passing any speaking order which may indicate that there was any application of mind on behalf of the appellate authority.

3. We are conscious of the decision of the Apex Court in the case of S. N. MUKHERJEE VS. UNION OF INDIA, AIR 1990 SC 1984. The Supreme Court emphasized the need for the quasi judicial authorities and even in certain cases upon the administrative authorities to pass speaking orders. We are also conscious of the fact that herein there was no specific provision which debarred the concerned authority from ~~dispensing with~~ giving of the reasons. It is in this back-drop that the following findings of the Supreme Court come into play. The Supreme Court held :-

"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 where under 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, which 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



As Agg

ED 15

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."



From the aforesaid, it is obvious that in normal circumstances, recording of reasons should be there while disposing of the appeal. It should not be recording of a decision like recording a judgement, but there should be reasons recorded to indicate that the appellate authority had applied its mind.

4. In the present case, perusal of the Annexure A-1 order which is the decision of the appellate authority does not indicate as to what reasons prompted the appellate authority from not interfering with the order of the disciplinary authority or dismissing the appeal. On this short count, the impugned order Annexure A-1 is liable to be quashed.

5. Accordingly, we dispose of the present application with the following directions :-

- (i) the appellate authority unmindful of the earlier dismissal of the appeal may apply its mind and record reasons while deciding the appeal ;-
- (ii) nothing said herein should be taken as an expression of opinion on the merits of the matter.

No cost.

GB
(G. R. PATWARDHAN)
MEMBER (A)

VS Ag
(V. S. AGGARWAL)
CHAIRMAN

/sns/

8-12-83
M
Lokay

✓/✓/✓/✓/✓

Part II and III destroyed
in my presence on
under the supervision of
section officer () as per
order dated/.....

Section officer (Record)