

A CHAIRMAN, D.A., RANI LAKSHMI BAI K.G.BANK

v.

JAGDISH SHARAN VARSHNEY AND ORS.

(Civil Appeal No. 1921 of 2009)

B MARCH 26, 2009

[MARKANDEY KATJU AND B.SUDERSHAN
REDDY, JJ.]

C SERVICE LAW:

C Order of affirmation – Appellate authority affirming order
of disciplinary authority – Requirement of reasons to be
recorded – HELD: It cannot be accepted as a proposition that
D an order of affirmation need not contain any reasons at all –
The order must contain some reasons, at least in brief, so that
one can know whether the appellate authority has applied its
mind while affirming the order of the disciplinary authority –
E In the instant case, since the appellate authority's order does
not contain any reasons, it does not show any application of
mind – High Court rightly set aside the order of appellate
F authority but it should not have set aside the order of
disciplinary authority – The judgment of the High Court to the
extent it has set aside the order of the disciplinary authority
is set aside – Matter remitted to the appellate authority to
decide the appeal filed by employee afresh in accordance with
law after affording him an opportunity of hearing and also by
a speaking order.

Divisional Forest Officer vs. Madhusudan Rao, JT 2008
(2) SC 253; Madhya Pradesh Industries Ltd. vs. Union of India
G AIR 1966 SC 671 and Siemens Engineering & Manufacturing
Co. Ltd. vs. Union of India, AIR 1976 SC 1785, relied on.

State Bank of Bikaner & Haipur & Others vs. Prabhu
Dayal Grover (1995) 6 SCC 279; S.N.Mukherjee vs. Union

*of India (1990) 4 SCC 594 and State of Madras vs. A
Srinivasan, AIR 1966 SC 1827, referred to.*

Case Law Reference:

1995) 6 SCC 279	referred to	para 7	
(1990) 4 SCC 594	referred to	para 10	B
1966 SC 1827	referred to	para 13	
JT 2008 (2) SC 253	relied on	para 8	
AIR 1966 SC 671	relied on	para 8	C
AIR 1976 SC 1785	relied on	para 8	

CIVIL APPELLATE JURISDICTION : Civil Appeal No.
1921 of 2009.

From the Judgment & Order dated 13.03.07 of the High
Court of Judicature at Allahabad in Civil Misc. Writ Petition
No.2868/2004.

Dhruv Mehta, T.S. Sabasish for (K.L. Mehta) for the
Appellant.

Ajay Veer Singh (for Dr. Vipin Gupta) for the Respondent.

The Order of the Court was delivered:

ORDER

1. Heard learned counsel for the parties.

2. This Appeal has been filed against the judgment and
order dated 13.3.2007 passed by the High Court of Judicature
at Allahabad in Civil Misc. Writ Petition No.2868 of 2004,
whereby and whereunder the High Court has allowed the writ
petition and quashed the order dated 23.4.2003 passed by the
Disciplinary Authority and the resolution of the Board of
Directors dated 4.9.2003 as communicated by Board's letter

A dated 3.10.2003.

B 3. It appears that there was some allegation against respondent No.1 on the basis of which he was charge-sheeted; an enquiry was held and he was found guilty and he was given the punishment of fixing his pay scale at Rs.7780/- by reducing the increment of time scale by 15 under regulation 38(1) (Kha-II) of Chapter IV of the Rani Laxmibai Kshetriya Gramin Bank Officers and Employees Service Rules, 2000 (for short 'the Rules').

C 4. Aggrieved and dissatisfied by the order of the Disciplinary Authority dated 23.4.2003, respondent No.1 filed an appeal before the appellate authority (Board of Directors) on 13.6.2003 which was dismissed by the appellate authority on 4.9.2003 without giving any reasons whatsoever.

D 5. Aggrieved against the order of the appellate authority dated 4.9.2003, respondent No.1 filed a writ petition in the High Court of Judicature at Allahabad.

E 6. The High Court by the impugned order has allowed the writ petition filed by respondent No.1 and set aside the orders of the appellate authority and disciplinary authority on the ground that the order of the appellate authority dated 4.9.2003 did not contain any reasons.

F 7. Shri Dhruv Mehta, learned counsel appearing for the appellant relied on a decision of this Court in the case of *State Bank of Bikaner & Haipur & Others vs. Prabhu Dayal Grover* reported in (1995) 6 SCC 279 and contended that an order of affirmation does not require any reasons.

G 8. In our opinion, an order of affirmation need not contain as elaborate reasons as an order of reversal, but that does not mean that the order of affirmation need not contain any reasons whatsoever. In fact, the said decision in *Prabhu Dayal Grover's* case(supra) has itself stated that the appellate order should

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disclose application of mind. Whether there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority. Hence, we cannot accept the proposition that an order of affirmation need not contain any reasons at all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority. The view we are taking was also taken by this Court in *Divisional Forest Officer vs. Madhusudan Rao*, JT 2008 (2) SC 253 (vide para 19), and in *Madhya Pradesh Industries Ltd. vs. Union of India*, AIR 1966 SC 671, *Siemens Engineering & Manufacturing Co. Ltd. vs. Union of India*, AIR 1976 SC 1785 (vide para 6), etc.

9. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

10. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of *S.N. Mukherjee vs. Union of India* reported in (1990) 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

11. No doubt, in *S.N. Mukherjee's case* (supra), it has been observed (vide para 36) that:

"..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."

12. The above observation, in our opinion, really means

- A that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority.
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13. For the same reason, the decision of this Court in *State of Madras vs. Srinivasan*, AIR 1966 SC 1827 (vide para 15) has also to be understood as explained by us above.

- C
16. Hence, we agree with the High Court that reasons should have been contained in the appellate authority's order, but we cannot understand why the High Court has set aside the order of the disciplinary authority, in addition to setting aside the appellate order.
- D

- E
17. Hence, this appeal is partly allowed and the impugned judgment of the High Court to the extent that it has set aside the order of the disciplinary authority is set aside, and the matter is remanded to the appellate authority to decide the appeal filed by respondent No.1 afresh in accordance with law after affording an opportunity of being heard to respondent No.1 and also by passing a speaking order. The said appeal shall be decided very expeditiously. No order as to costs.

R.P.

Appeal partly allowed.