

## **Mahesi P.N. Vs Cotton Corporation of India Ltd. and Another**

**Court:** Rajasthan High Court

**Date of Decision:** Aug. 9, 2000

**Citation:** (2001) 89 FLR 312 : (2001) 2 LLJ 330 : (2000) 4 RLW 292 : (2001) 1 WLN 628

**Hon'ble Judges:** Sunil Kumar Garg, J; B.J. Shethna, J

**Bench:** Division Bench

**Advocate:** Mridul and R.S. Saluja, for the Appellant;

**Final Decision:** Dismissed

### **Judgement**

B.J. Shethna, J.

The appellant/original petitioner was removed from service by the impugned order dated May 4, 1988 which was

confirmed in appeal by the appellate authority by its order dated September 6, 1989. The said orders were challenged by him before the learned

single Judge in S.B. Civil Writ Petition No. 4016/1989. This writ petition was dismissed on September 10, 1999.

2. Learned Senior Advocate Mr. Mridul appearing for the appellant raised the following contentions:

(1) The impugned order passed by the disciplinary authority is totally a non-speaking order.

(2) The appellate order is also a non-speaking order.

(3) The respondents had appointed one retired judicial officer as an enquiry officer against the petitioner in the departmental enquiry but the request

of the petitioner to engage a lawyer was not granted.

Out of these three contentions, the third contention was not raised at all before the learned single Judge, therefore, there is no finding recorded by

the learned single Judge on that. It may be stated that against the impugned order of removal, when the petitioner had filed departmental appeal,

this contention regarding the appointment of judicial officer as an enquiry officer was never raised. It was raised for the first time in review. It may

also be stated that before the learned single Judge, a totally different argument was raised to the effect that the enquiry officer, who was a retired

judicial officer, hurriedly submitted his report. There is a difference between the enquiry report being submitted expeditiously by the enquiry officer

and about his competence and denying an opportunity to the petitioner to defend himself in the enquiry through his lawyer. Thus, the third

contention which was sought to be raised by the learned Senior Advocate Mr. Mridul for the first time in this special appeal cannot be permitted.

3. Now we come to the first contention regarding the impugned order of removal passed by the disciplinary authority is a non-speaking order.

From the impugned order, prima facie it appears that it is a non-speaking order but from Annexure R/5 produced along with the reply affidavit, it is

clear that it was a speaking order as while passing the impugned order, the authority separately recorded the reasons. However, an attempt was

made by the learned counsel Mr. Mridul that certain contentions raised by the petitioner in his written arguments were not dealt with in detail. If the

authority is satisfied with the evidence on record that otherwise the charges are proved, then it is not necessary for the disciplinary authority to give

its finding on each and every argument raised by the delinquent.

4. The learned single Judge has also meticulously considered this argument and rejected the same for the reasons recorded by him in the impugned

order. We fully agree with the reasons assigned by him in his impugned order for rejecting this contention.

5. One more contention remained regarding the appellate decision being non-speaking. A close scrutiny of the appellate decision shows that some

reasons were recorded and when the appellate authority concurs with the disciplinary authority, then in our considered opinion, it was not required

to pass a detailed reasoned order. In any case, this argument loses all its significance because on a review petition filed by the appellant before the

Appellate Authority, the Appellate Authority dismissed the review petition by giving detailed reasons. However, argument raised by the learned

counsel Mr. Mridul was that the mistake or error committed by the Appellate Authority at the time of dismissal of the appeal cannot be corrected

later on. If the appellant had not filed review petition against the order passed by the Appellate Authority, then perhaps this contention could have

been considered. But on facts of this case, it has no substance because even the earlier decision taken by the Appellate Authority is also reasoned

one. It may be brief but there were some reasons and as stated earlier, when the appellate authority was agreeing with the view taken by the

disciplinary authority, then in our considered opinion, no detailed order was required to be passed. This contention was also raised before the

learned single Judge and in view of several Supreme Court judgments referred to by the learned single Judge in his order, the same has not found

favour and accordingly, it was rejected.

6. We also don't find any substance in this submission and hence, it is rejected.

7. Except the above contentions, no other contention was raised.

8. In view of the above discussion, this appeal fails and is hereby dismissed.