

(1996) 09 AP CK 0018

Andhra Pradesh High Court

Case No: Writ Petition No. 18630 of 1996

B. Balasudarshan

APPELLANT

Vs

Registrar (Management), High
Court of Andhra Pradesh and
Another

RESPONDENT

Date of Decision: Sept. 23, 1996

Acts Referred:

- Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963 - Rule 24(2)

Citation: (1997) 3 ALT 640

Hon'ble Judges: S. Parvatha Rao, J; B.V. Ranga Raju, J

Bench: Division Bench

Advocate: K. Siva Reddy, for the Appellant; P. Ravi Prasad, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

S. Parvatha Rao, J.

The petitioner seeks a Writ of Certiorari to quash the order in ROC. No. 18/96. C.II/1, dated 30-4-1996 passed by the 1st respondent and to direct the respondents to give all consequential benefits, etc.

2. The petitioner states that he was appointed as Copyist on 10-5-1982, and that he was promoted as Typist in the year 1983 and worked in several places in Kurnool District. While he was working as Typist in the Sub-Court at Atmakur, disciplinary proceedings were initiated against him by the 2nd respondent herein on 10-2-1993. The Principal Subordinate Judge, Kurnool was appointed as an Enquiry Officer to conduct the enquiry against him. The Enquiry Officer framed seven charges and found charges 3 and 4 proved in his enquiry report dated 22-8-1994 in Enquiry No. 1 of 1993. The 2nd respondent agreed with the Enquiry Officer as regards his findings

on charges 3 and 4, but disagreed with him as regards findings on charge No. 5 and found that charge also proved against the petitioner herein in his order in Dis. No. 7822/Estt/95 dated 24-11-1995. It is stated in the said order that on those findings, a show-cause notice was issued to the petitioner as to why his pay should not be reduced to the minimum in the time scale of pay of Junior Assistant/Typist. After detailed considering (sic. consideration of) the representation of the petitioner to the said show-cause notice, the 2nd respondent held as follows:

"in view of the fact that the proved charges relate to indiscipline, neglect of duty, evasion or avoidance of work and misbehaviour towards officers and other members of the staff, a lenient view cannot be taken. But, however I am of the opinion that instead of the punishment of reduction of pay to the minimum in the time scale, the punishment of stoppage of two annual increments of the delinquent with cumulative effect would sub-serve the cause of justice".

In the result, he awarded the punishment of stoppage of two annual increments of the delinquent with cumulative effect. That was questioned by the petitioner by way of Writ Petition No. 27982 of 1995 before this court. The said Writ Petition was disposed of by a learned single Judge by his order dt. 20-12-1995 directing the said Writ Petition to be treated as an "Administrative Appeal" on the administrative side of the High Court. Pursuant to the said direction, the High Court considered the matter as an appeal preferred by the petitioner on the administrative side of the High Court and disposed of the same by the following order, impugned now.

"After consideration of the appeal of Sri B. Balasudarshan, Typist, Family Court, Kurnool 1st read above and the letter of the District Judge, Kurnool 2nd read above and also the connected record, the High Court holds that there is no substance in the appeal, that the punishment awarded is also proper and that, therefore, the appeal is liable to be dismissed."

3. The petitioner questions the said order of the High Court describing it as an order of the 1st respondent i.e., The Registrar (Management). That is not correct. The 1st respondent only purports to communicate the decision of the High Court. That is clear from the statement; "the High Court holds that there is no substance in the appeal."

4. Apart from the grounds raised in the Writ Petition No. 27982 of 1995, the only additional ground raised in the present Writ Petition by the petitioner is that the said appellate order dated 30-4-1996 is not a speaking order and that it does not give any reasons while confirming the order of the 2nd respondent and, therefore, is bad. Two of the grounds raised in the present Writ Petition, which were also raised in Writ Petition No. 27982 of 1995, are that the charges were vague and that no reasonable opportunity was given to the petitioner inasmuch as the documents sought by him were not furnished and that the witnesses sought to be examined by him were not allowed to be examined. Before proceeding further, we have to look at

the three charges found against the petitioner by the disciplinary authority i.e., the 2nd respondent herein. They are as follows:

"Charge No. 3: That on 21-4-90 members of staff of Sub-Court, Atmakur viz., (1) Sri S. Sivaiah the then Sheristadar, (2) Sri G. Venkatakondaiah, Junior Asst, (3) Sri M. Anwarulla, Jr. Asst, (4) Sri D. Soma Sundaram, the then Sr. Asst. now working as Head Clerk, M.M. Court, Atmakur, (5) Sri K. Somoji Rao, Jr. Asst., (6) Sri S. Satyanarayana, Head Clerk (now working as Head Clerk, Additional Munsiff Magistrate's Court, Nandikotkur), (7) Sri S. Jayaramudu, Steno-typist, (8) Sri R. Upendra, Jr. Asst., (9) P. Nagireddy, Jr. Asst., (10) Sri Shaik Md. Khasim, the then Typist and (11) Sri G. Narsimhulu, the then Record Asst. have given a signed petition against you about your arrogant, reckless and mannerless behaviour categorically stating that you are in the habit of evading work whenever any typing matter was entrusted to you by the members of staff saying that it was not your duty, that you have no respect towards your superiors, that your behaviour towards members of staff was indecent and mannerless, that you are a petition-monger and a deliberate liar and that having been vexed with your behaviour, they come forward with such a petition and that is clinchingly shows (that) your indecent behaviour with your colleagues and your reckless attitude towards your legitimate duties, and thus you are guilty of negligency in your normal duties.

Charge No. 4: That on 25-1-91 Sri K. Sreenivasa Murthy, the then Head Clerk has submitted a report against you that you quarrelled with him and abused him in filthy language regarding the affair of sanction of your annual increment and when a Memo was issued to you, you made some counter-allegations, which reiterates that you have no good manners, and your indecent behaviour towards your superiors and thus you are guilty of misbehaviour.

Charge No. 5: That you are in the habit of throwing the burden on others with regard to your lapses in work and trying to evade the work; that on 9-9-91 when the then Sub-Judge questioned you about the typing of cause list on one side of the paper specifically instructing you to type the same on both sides of the paper as an economy measure, you gave an arrogant reply to the officer in public court, and stated that you did not type the cause list and that subsequently another typist Sri S. Bhaskara Babu gave it in writing that you yourself typed the same and thus you exhibited utter carelessness in discharge of your duties, and thus, you are guilty of negligence".

Examining these charges, we do not find that they are vague. It is not the case of the petitioner that he raised any such complaint or objection in his explanation given to the said charges, among others. Charges 3 and 4 essentially relate to the behaviour of the petitioner towards the other members of the staff working along with him and avoidance of work entrusted to him, and his quarrel with the Head Clerk of the Subordinate Judge's Court and abusing him in filthy language. Charge No. 5 is very specific and particularly relates to his not complying with the directions of the

Subordinate Judge to type the cause list on both sides and the manner in which he conducted himself on 9-9-1991 when he was asked as to why he did not comply with the said direction. The 2nd respondent found that the charges were proved by the evidence on record. It is not the case of the petitioner that the findings of the 2nd respondent on the said charges are perverse or are not based on any evidence whatsoever. As regards the attack based on absence of reasonable opportunity, the petitioner has not come forward even in the present Writ Petition as to what documents he wanted to be furnished and as to what witnesses he wanted to examine. It is not the case of the petitioner that he made any representation that he wanted any document or to examine any witness, and it was rejected by the Enquiry Officer. In the absence of any such request made by the petitioner, the said contention of the petitioner is without any basis. It is in view of the insubstantial nature of grounds raised by the petitioner in questioning the order of the 2nd respondent dated 24-11-1995 as regards the findings on the three charges that the appellate authority i.e., High Court of Andhra Pradesh, in confirming the said order, held that after consideration of the appeal of the petitioner there was no substance in the appeal and that the punishment awarded was also proper and that, therefore, the appeal was liable to be dismissed.

5. The learned counsel for the petitioner relies on the judgment of the Supreme Court in [R.P. Bhatt Vs. Union of India and Ors \(UOI\) ..](#) and contends that "consideration" in sub-rule (2) of Rule 24 of the Andhra Pradesh Civil Services (C.CA.) Rules, 1963, implies "due application of mind", and that a reading of order dated 30-4-1996 of the High Court does not reveal any application of mind. We do not agree. In [R.P. Bhatt Vs. Union of India and Ors \(UOI\) ..](#) the Supreme Court was considering Rule 27(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and observed as follows:

"The word "consider" in R. 27(2) implies "due application of mind". It is clear upon the terms of R. 27(2) that the appellate authority is required to consider (1) whether the procedure laid down in the Rules has been complied with; and if not, whether such non-compliance has resulted in violation of any provisions of the Constitution or in failure of Justice; (2) Whether the findings of the disciplinary authority are warranted by the evidence on record; and (3) whether the penalty imposed is adequate; and thereafter pass orders confirming, enhancing etc. the penalty, or may remit back the case to the authority which imposed the same. Rule 27(2) casts a duty on the appellate authority to consider the relevant factors set forth in Cls. (a), (b) and (c) thereof."

The petitioner's appeal before the 1st respondent was under Rule 24 of Andhra Pradesh Civil Services (C.CA.) Rules, 1963. The said rule is as follows:

"24. (1) the case of an appeal from an order imposing any penalty specified in Rule 8 or Rule 9, the appellate authority, shall consider -

- (a) whether the facts on which the order was based have been established;
- (b) whether the facts established sufficient ground for taking action; and
- (c) whether the penalty is excessive, adequate or inadequate; and after such consideration, shall pass such order as it thinks proper:

(proviso omitted as not necessary)

(2) The appellate authority shall also consider whether the authority which imposed penalty has followed strictly the procedure prescribed in these rules before such penalty was imposed. Any error or defect in the procedure followed in imposing a penalty may be disregarded by the appellate authority if such authority considers, for reasons to be recorded in writing, that the error or defect has neither caused injustice to the person concerned nor has materially affected the decision in the case".

We have noticed earlier that the petitioner herein questioned the order of the 2nd respondent dated 24-11-1995 only on two grounds: that the charges were vague; and that no reasonable opportunity was given to him. It is well established that in an appellate order confirming the order of the lower authority, it is not necessary that detailed reasons need be given, especially in a case where the grounds raised questioning the order of the lower authority are *ex facie* without any substance. In State Bank of Bikaner and Jaipur and others Vs. Prabhu Dayal Grover, the Supreme Court, dealing with Regulation 70(2) of the State Bank of Bikaner and Jaipur Officers' Service Regulations, 1979 and a similar contention as is raised by the petitioner before us, held as follows:

"Under Regulation 70(2), the appellate authority is required to consider whether the findings recorded against the officer concerned are justified and/or whether the penalty is excessive or inadequate and pass appropriate orders confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such directions as it deems fit in the circumstances of the case. This Regulation also does not obligate the appellate authority to give any reasons for its order. Assuming, that by necessary implication this Regulation also requires the appellate authority to give the reasons, still its order cannot be invalidated, as we find that it has discharged its obligation by considering the records and proceedings pertaining to the disciplinary action and the submissions made by Grover (the delinquent officer). In other words, the order clearly demonstrates that the appellate authority had applied its mind not only to the proceedings of the enquiry, but also the grounds raised by Grover in his appeal and on such application found that there was no substance in the appeal".

In the present case also, we find that the appellate order demonstrates that the 1st respondent after consideration of the appeal of the petitioner and the connected record held that there was no substance in the appeal and also held that the

punishment awarded was proper. There is nothing in the said order to indicate or suspect that the 1st respondent did not apply its mind. In *State Bank of India v. S. S. Koshal* . the rule considered by the Supreme Court was Rule 51(2) of the rules applicable to the employees of the State Bank of India providing for an appeal and the manner in which the appellate authority should consider the appeal. The Supreme Court held as follows:

"The High Court has taken the view that the rule requires the appellate authority to pass a speaking order even if it is an order of affirmance. For the purpose of this case, we shall assume the said view to be the correct one. Even so we are not satisfied that the appellate order is not a speaking order. We have already extracted the appellate order in full hereinbefore, which shows that it considered at length the facts of the case including the fact that the appellate authority (sic disciplinary authority) had differed from the findings of the Enquiry Officer in respect of the two charges. The appellate authority then says that it considered the relevant grounds of appeal and after considering the facts of the case came to the conclusion that there was no substance in the appeal. In view of the fact that it was an order of affirmance, we are of the opinion that it was not obligatory on the part of the appellate authority to say more than this as the order as it is, shows application of mind. The order cannot be characterised as a non-speaking order."

This decision clearly supports the view we have taken.

6. In the circumstances, we do not find any merit in this Writ Petition. Therefore, it is dismissed. No costs.