SUPREME COURT OF INDIA

FOOD CORPORATION OF INDIA, HYDERABAD AND OTHERS
Vs.

A. PRAHALADA RAO ANĐND ANOTHER

01/11/2000

(M.B. Shah, & D.P. Mohapatra.)

JUDGMENT

Shah, J.

Leave granted.

The notice issued by this Court is limited to the interpretation given by the High Court to Regulation 60 of the Food Corporation of India (Staff) Regulations, 1971 (hereinafter referred to as the Regulations) which prescribes the procedure for imposing minor penalties. In Writ Petition No.14152 of 1989 filed by respondent No.1-Assistant Manager (Quality Control) at Kakinada challenging the order imposing penalty of recovery of Rs.7356/- from his pay by 21 monthly instalments on the ground of dereliction of his duties, which caused loss to the Corporation, learned Single Judge held that once the employee denies the charge, it is incumbent upon the authorities to conduct an inquiry by giving an opportunity to him and render findings on the charges, otherwise there is every scope for the disciplinary authority to misuse the power under Regulation 60. The Court, therefore, set aside the order imposing minor penalty as the procedure contemplated for imposing major penalty was not followed. In appeal, the Division Bench of the High Court by judgment and order dated 18th November, 1997 confirmed the same by observingwhere the employee disputes that any loss is caused to the Corporation either by his negligence or breach of order, and if so, how much pecuniary loss has been incurred, it is but necessary that an enquiry should be conducted, otherwise it is impossible to arrive at a correct finding with regard to the causing of loss by the employee by his negligence or breach of order and with regard to the quantum of loss. The aforesaid interpretation of Rules given by the High Court is challenged in this appeal.

For deciding the question involved, we would first refer to the relevant procedure prescribed under Regulations 54 and 60 which read thus:-

54. MINOR PENALTIES:

(i) Censure;

(ii) withholding of his promotion;

(iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Corporation by negligence or breach of orders;

(iv) withholding of increments of pay.

60. PROCEDURE FOR IMPOSING MINOR PENALTIES:

(1) Subject to the provisions of Sub-regulation (3) of Regulation 59, no order imposing on an employee any of the penalties specified in clauses (i) to (iv) of Regulation 54 shall be made except after:

(a) informing the employee in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in Sub- regulations (3) to (23) of Regulation 58, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the employee under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour.

(2) Notwithstanding anything contained in clause (b) of Sub- regulation (1), if in a case it is proposed, after considering the representation, if any, made by the employee under clause (a) of the sub-regulation, to withhold increment of pay and such withholding of increments is likely to affect adversely the amount of retirement benefits payable to the employee or to withhold increments of a pay for a period exceeding 3 years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in Sub-regulations (3) to (23) of Regulation 58 before making any order imposing on the employee any such penalty.

(3) The record of the proceedings in such cases shall include:

(i) a copy of the intimation to the employee of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) his representation, if any;

(iv) the evidence produced during the inquiry;

(v) the findings on each imputation of misconduct or misbehaviour; and

(vi) the orders on the case together with the reasons therefor.

Learned counsel appearing on behalf of the appellants submitted that while interpreting Regulation 60, the High Court has added a proviso by stating that when the employee disputes his liability after receipt of the show cause notice, it is incumbent upon the disciplinary authority to conduct a detailed enquiry as provided for major punishment. It is his contention that in case of negligence in discharge of duties or loss occurred to the Corporation by not following the directions issued by the Corporation for taking precautions, there is no question of holding full-fledged departmental enquiry before imposing minor penalty as provided in Regulation 54. As against this, respondent No.2-Joint Secretary, Food Corporation of India Executive Staff Union who appeared in person submitted that under the guise of imposing minor penalties, the Management of appellant is dispensing with holding of regular departmental enquiry in cases where charges cannot be proved.

He further pointed out that there is large scale misuse of powers under the said Regulation and, therefore, the interpretation given by the High Court to the said Regulation does not call for any interference.

In our view, on the basis of the allegation that Food Corporation of India is misusing its power of imposing minor penalties, the Regulation cannot be interpreted contrary to its language. Regulation 60(1)(b) mandates the disciplinary authority to form its opinion whether it is necessary to hold enquiry in a particular case or not. But that would not mean that in all cases where employee disputes his liability, a full-fledged enquiry should be held. Otherwise, the entire purpose of incorporating summary procedure for imposing minor penalties would be frustrated. If the discretion given under Regulation 60(1)(b) is misused or is exercised in arbitrary manner, it is open to the employee to challenge the same before the appropriate forum. It is for the disciplinary authority to decide whether regular departmental enquiry as contemplated under Regulation 58 for imposing major penalty should be followed or not. This discretion cannot be curtailed by interpretation which is contrary to the language used. Further, Regulation 60(2) itself provides that in a case if it is proposed to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of retirement benefits payable to employee and in such other cases as mentioned therein, the disciplinary authority shall hold enquiry in the manner laid down in Regulation 58 before making any order imposing any such penalty. Hence, it is apparent that High Court erroneously interpreted the regulation by holding that once the employee denies the charge, it is incumbent upon the authority to conduct enquiry contemplated for imposing major penalty. It also erred in holding that where employee denies that loss is caused to the Corporation either by his negligence or breach of order, such enquiry should be held. It is settled law that Courts power of judicial review in such cases is limited and Court can interfere where the authority held the enquiry proceedings in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of enquiry and imposing punishment or where the conclusion or finding reached by the disciplinary authority is based on no evidence or is such that no reasonable person would have ever reached. As per the Regulation, holding of regular departmental enquiry is a discretionary power of the disciplinary authority which is to be exercised by considering the facts of each case and if it is misused or used arbitrarily, it would be subject to judicial review.

In the result, the appeal is allowed to the aforesaid extent. There shall be no order as to costs.