

STATE OF UTTARAKHAND & ANR.

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v.

MAYAN PAL SINGH VERMA

(Civil Appeal No. 2905 of 2022)

APRIL 19, 2022

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[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

*Constitution of India, 1950 – Art. 226 – High Court disposed of writ petition without deciding it on merits and directed the State to comply with the order passed by the Tribunal which was under challenge before it – On appeal by State, held: The High Court disposed of the writ petition in a most cavalier and cursory manner, which is unsustainable – Order of the High Court is bereft of reasoning – When a number of issues/grounds were raised in the writ petition, there was the duty cast upon the High Court to deal with the same and thereafter, to pass a reasoned order – Matter remanded to High Court for deciding the writ petition afresh on merits – Practice and Procedure.*

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**Remanding the matter to High Court, the Court**

**HELD:1.** From the writ petition produced on record, it appears that the order passed by the Tribunal was challenged on a number of grounds. None of the grounds raised in the writ petition has been dealt with and/or considered by the High Court on merits. There is no discussion at all on any of the grounds raised in the writ petition. The High Court disposed of the writ petition in a most cavalier and cursory manner, which is unsustainable. The High Court was required to decide and dispose of the writ petition on merits and consider the legality and correctness of the order passed by the Tribunal. [Para 2.1] [81-G; 82-B]

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**2.** The manner in which the High Court has dealt with and disposed of the writ petition without deciding the writ petition on merits cannot be appreciated at all. When a number of issues/grounds were raised in the writ petition, there was the duty cast upon the High Court to deal with the same and thereafter, to pass a reasoned order. [Para 2.2][82-C]

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No.104/DB/2009, by which the Tribunal directed the Department to ignore the un-communicated “Uttam” entries in the ACRs while considering the case of the original applicant – private respondent herein for his promotion to the post of the Chief Engineer Level-2 by the reviewed ACP, the State of Uttarakhand had preferred the writ petition before the High Court. By the impugned order, the Division Bench of the High Court has disposed of the said writ petition without deciding the writ petition on merits and without expressing anything on the legality and validity of the order passed by the Tribunal and has directed the State to comply with the order passed by the Tribunal by observing that though Tribunal had passed an order on 15<sup>th</sup> September, 2021, no review ACP has been constituted. There is no discussion at all by the High Court on the merits of the order passed by the Tribunal, which was under challenge before it. The impugned order reads as under: -

“The matter is taken up through virtual hearing.

Heard Mr. Pradeep Joshi, learned Standing Counsel for the appellant.

In this case, the petitioner has assailed the order passed by the Uttarakhand Public Service Tribunal, Dehradun in Claim Petition No. 104/DB/2009 directing the opposite party to ignore the un-communicated ‘Uttam’ entries in the ACRs while considering the case of the private respondent for his promotion to the post of the Chief Engineer level-2 by the reviewed ACP. It is further directed that the respondent-Department may hold the reviewed ACP within three months from the date representation of the certified copy of this order. This Order has been passed on 15<sup>th</sup> September, 2021 till then no review ACP has been constituted. Let that order passed by the Tribunal be complied within 21 days from today.

With such observation, the writ application is disposed of.”

2.1 From the writ petition produced on record, it appears that the order passed by the Tribunal was challenged on a number of grounds. None of the grounds raised in the writ petition has been dealt with and/or considered by the High Court on merits. There is no discussion at all on any of the grounds raised in the writ petition. The Division Bench of the High Court has disposed of the writ petition in a most cavalier and cursory manner, which is unsustainable. The High Court has disposed of the writ

- A petition without deciding the writ petition on merits and has directed the Department to comply with the order passed by the Tribunal solely by observing that the order has been passed on 15<sup>th</sup> September, 2021 and till date no review ACP has been constituted. However, the High Court ought to have noted that the order passed by the Tribunal was under challenge before it and therefore, the High Court was required to decide and dispose of the writ petition on merits and consider the legality and correctness of the order passed by the Tribunal.

- 2.2 The manner in which the High Court has dealt with and disposed of the writ petition without deciding the writ petition on merits cannot be appreciated at all. When a number of issues/grounds were raised in the writ petition, there was the duty cast upon the High Court to deal with the same and thereafter, to pass a reasoned order. In the recent decision in the case of **Vishal Ashwin Patel Vs. Assistant Commissioner of Income Tax Circle 25(3) & Ors.** (Civil Appeal No. 2200/2022), it was observed by this Court that when the Constitution confers on the High Courts the power to give relief, it becomes the duty of the High Courts to give such relief in appropriate cases and the High Courts would be failing to perform its duty if relief is refused without adequate reasons. It is further observed that in this case, the High Court in exercise of powers under Article 226 of the Constitution of India was required to have independently considered the legality and validity of the order passed by the Tribunal which was under challenge before it. Neither any submission on merits is recorded nor is there any discussion on the merits of the matter on the order passed by the Tribunal. There is no application of mind at all by the High Court on merits of the order passed by the Tribunal. It can be seen that the High Court has failed to exercise its jurisdiction vested in it while exercising the powers under Article 226/227 of the Constitution of India.

- 2.3 While emphasising the necessity to pass a reasoned order, in the case of **Central Board of Trustees Vs. Indore Composite Private Limited, (2018) 8 SCC 443**, it was observed and held by this Court that the courts need to pass a reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the learned counsel for the parties in support of its conclusion. It was further observed in the said decision that an order bereft of reasoning

causes prejudice to the parties because it deprives them to know the reasons as to why one party has won and other has lost. A

2.4 In a recent decision in the case of **Union Public Service Commission Vs. Bibhu Prasad Sarangi and Ors., (2021) 4 SCC 516**, while emphasising that reasons ought to be given by the High Court while exercising powers under Article 226 of the Constitution of India, it was observed and held by this Court that the reasons constitute the soul of judicial decision and how Judges communicate in their judgment is a defining characteristic of judicial process since quality of justice brings legitimacy to the judiciary. It is further observed that though statistics of disposal of cases is important, of a higher value, is the intrinsic content and of a quality judgment. It is further observed that in exercise of powers under Article 226 the courts require to independently consider the issues involved. B C

3. Applying the law laid by this Court in the aforesaid decisions to the facts of the case on hand and the manner in which the High Court has disposed of the writ petition, in the interest of sobriety, we may only note that the order is bereft of reasoning as diverse grounds were urged/raised by the parties which ought to have been examined by the High Court in the first place and a clear finding was required to be recorded upon analysing the relevant documents. D

4. Since we cannot countenance the manner in which the order has been passed by the High Court which has compelled us to remand the matter to the High Court for deciding the writ petition afresh on merits, we do so in light of the aforesaid observations. E

5. In light of the foregoing discussion, we allow the present appeal and set aside the impugned order passed by the High Court and remand the matter to the Division Bench of the High Court for deciding the writ petition afresh in accordance with law, keeping in view our observations made supra. We, however, make it clear that we have refrained from making any observation on the merits of the controversy, having formed an opinion to remand the case to the High Court only for the reasons mentioned above. The High Court would, therefore, decide the writ petition, bearing in mind our observations made above and strictly in accordance with law. With the above directions, the present appeal is accordingly allowed and the impugned order is set aside. The matter is remanded to the High Court as aforesaid. No costs. F G