Tara Chand Khatri vs Municipal Corporation Of Delhi And Ors. on 26 November, 1976

Equivalent citations: AIR1977SC567, 1977LABLC55, (1977)ILLJ331SC, (1977)1SCC472, [1977]2SCR198, AIR 1977 SUPREME COURT 567, 1977 LAB. I. C. 55, 1977 (1) LABLN 428, 1977 (1) SCC 472, 1977 (1) SCR 638, 1977 2 SCR 198, 1977 (1) LABLJ 331, 1976 MCC 259, 1977 (1) SERVLR 752

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Bench: A.N. Ray, Jaswant Singh, M.H. Beg

JUDGMENT

Jaswant Singh, J.

1. This appeal by special leave is directed against the judgment and order dated March 28, 1972 of the High Court of Delhi dismissing in limine the writ petition filed by the appellant herein.

2. The facts essential for the purpose of this appeal are : The appellant was appointed as an Assistant Teacher on temporary basis in the pay scale of Rs. 68-170. which was subsequently revised to Rupees 118-225, in the Primary School, Northern Railway Colony II run by the Education Department of the Municipal Corporation of Delhi, with effect from October 1, 1958. He was confirmed on the said post on September 30, 1959. On August 28, 1964, he was transferred to the Senior Basic Middle School of the Corporation in Panna Mamurpur, Narela II. In September 1967, he was assigned the work of teaching certain subjects to both the sections of Class V. In Section A of Class V, there was at that time a student named Surinder Kumar, son of Dhan Raj. On September 6, 1967, Dhan Raj made a written complaint to the Education Officer of the Corporation, a copy of which he endorsed to the Head Master of the School, alleging therein that the appellant had sensually misbehaved with his son, Surinder Kumar in the School premises during the recess time on 2nd and 4th September, 1967. On October 5, 1967 the Education Officer suspended the appellant. On April 15, 1968, the Assistant Education Officer. Rural North Zone, was directed by his superior to prepare a charge-sheet against the appellant whereupon a charge-sheet was drawn up and served on the latter on November 16, 1968. Thereafter, the Director of Inquiries, who was deputed to enquire into the matter proceeded to hold the enquiry and on consideration of the evidence adduced before him, he submitted a report on May 20, 1969. holding that the charge leveled against the appellant had been established. On receipt of the report and perusal thereof, the Deputy Commissioner. Education of the Corporation passed the following order on May 20, 1969:

> I have gone through the report of the Inquiry Officer and agree with his findings. The Inquiry Officer has held the charge of committing an immoral act with a student of Class V, leveled against Shri Tara Chand Khatri. A/T (Respondent) as proved. Such an act on the part of a teacher is most unbecoming, serious and reprehensible I propose to impose the penalty of 'dismissal' from service which shall be a disqualification for future employment on the respondent.

3. Consequent upon the passing of this order, a notice was issued to the appellant requiring him to show cause why the penalty of dismissal from service be not imposed on him. On July 11, 1969, the appellant submitted his representation in reply to the show cause notice. By order dated July 30, 1968, the Deputy Commissioner, rejected the representation of the appellant and imposed the penalty of dismissal from service upon him Aggrieved by this order, the appellant preferred an appeal to the Commissioner of the Corporation on August 29, 1969, under Regulation 11 of the Delhi Municipal Corporation Service (Control and Appeal) Regulations, 1959 (hereinafter referred to as 'the Regulations') which was rejected by the Commissioner on September 13, 1969. On October 11, 1971, the appellant filed Civil Writ Petition No. 1032 of 1969 in the High Court of Delhi challenging the aforesaid order of his dismissal from service. The High Court allowed the petition on the ground that the order of the Appellate Authority was made in violation of the requirements of Regulation 15 of the Regulations and directed the Appellate Authority to dispose of the appeal afresh on merits keeping in view all the facts and circumstances of the case as also the requirements of Regulation 15 of the Regulations. While disposing of the writ petition, the learned Judge added that if the appellant still felt aggrieved by the decision of the Appellate Authority, he would be at liberty in appropriate proceedings not only to challenge the order of the Appellate Authority but the order of the disciplinary authority as well. On remand, the Commissioner of the Corporation who happened to be an officer different from the one who rejected the appellant's appeal on the former occasion heard the appellant at considerable length but rejected the appeal by an elaborate order dated January 5, 1972. The appellant thereupon filed writ petition No. 179 of 1972 in the High Court of Delhi challenging the order dated July 30, 1969 of the Deputy Commissioner, Education, as well as the order of the Appellate Authority dated January 5, 1972. This petition was, as already stated, summarily dismissed without the issue of a notice to the respondents. The appellant then made an application to the High Court for leave to appeal to this Court but the same was also rejected.

4. Appearing in support of the appeal. Mr. Ramamurthi has vehemently contended that the appointing authority of the appellant being the Commissioner under Section 92 of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as 'the Act'), his dismissal from service by the Deputy Commissioner (Education) - an authority subordinate to the Commissioner is illegal. The counsel has next urged that Regulation 7 of the Regulations and the Schedule referred to therein conferring power on the Deputy Commissioner to dismiss a municipal officer or other employee drawing a monthly salary of less than Rs. 350/- being inconsistent with Section 95 of the Act is void and consequently the impugned order of the appellant's dismissal from service passed in exercise of that power is also illegal and invalid. The counsel has further contended that the impugned order of the appellant's dismissal from service being a quasi-judicial order is vitiated as the disciplinary authority has neither recorded its findings with respect to the charge drawn up against the appellant as required by Regulation 3(9) of the Regulations nor has it given its reasons for passing the order.

The counsel has lastly urged that the High Court ought not to have dismissed the petition in limine without calling upon the respondents to file the return as it raised not only arguable points of law but also contained allegations of mala fides against the respondents. We shall deal with these points seriatim. But before embarking on that task, we consider it apposite to refer to a few provisions of the Act and the regulations which have an important bearing on the case.

5. Under Section 92(1)(b) of the Act, as in force at the relevant time, the power of appointing municipal officers and other municipal employees whether temporary or permanent, to posts carrying a minimum monthly salary (exclusive of allowances) of less than three hundred and fifty rupees was vested in the Commissioner. Sub-section (1) of Section 95 of the Act provided that every municipal officer or other municipal employee shall be liable...to be censured, reduced in rank, compulsorily retired, removed or dismissed for any breach of any departmental regulations or of discipline ,or for carelessness, unfitness, neglect of duty or other misconduct by such authority as may be prescribed by regulations. The first proviso to this Sub-section, however, contained the following rider:

> Provided that no such officer or other employee as aforesaid shall be reduced in rank, compulsorily retired, removed or dismissed by any authority subordinate to that by which he was appointed.

6. Section 491 of the Act which is in the nature of an enabling provision provided as under:

> The Commissioner may by order direct that any power conferred or any duty imposed on him by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised and performed also by any officer or other municipal employee specified in the order.

7. It is admitted by the appellant that in exercise of the power conferred on him under Section 491 of the Act, the Commissioner had vide his order No. (1) 58 Law Corporation 1 dated April 7, 1958, directed that all the powers conferred on him under the various provisions of the Act would be exercised also by the Deputy Commissioner subject to his supervision, control and revision.

8. Regulation 7 of the Regulations and the Schedule referred to therein read as under:

> Regulation 7 : The authority specified in column 1 of the Schedule may impose on any of the municipal officers or other municipal employees specified there against in column 2 thereof any of the penalties specified there, against in column 3 thereof. Any such officer or employee may appeal against the order imposing upon him any of those penalties to the authority specified in column 4 of the said Schedule.
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> S C H E D U L E
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> | Description of | Authority | Penalties. | Appellate | posts. competent to |
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> | Authority | impose | penalties. | | |

... ... Posts whose minimum Deputy Commissioner. All Commissioner. monthly salary (exclusive of allow- ances) is less than three hundred and fifty rupees. Do Any municipal officer (i)&(ii) Deputy or employee to whom Commissioner. powers to impose penalties is delegated under Section 491. ... ...

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9. It would also be advantageous to refer to Regulation 8 of the Regulations in so far as it is relevant for the purpose of this appeal.

Regulation 8; ...

(9) The Disciplinary Authority, shall, if it is not the Inquiring Authority consider the record of inquiry and, record its findings on each charge.

(10) If the Disciplinary Authority, having regard to its findings on the charges, is of the opinion that any of the penalties specified in Regulation 6 should be imposed, it shall:

> (a) furnish, to the municipal officer or other municipal employee a copy of the report of the Inquiring Authority and, where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority; and
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> (b) give him a notice stating the action proposed to be taken in regard to him and calling upon him to submit within a specified time such representation as he may wish to make against the proposed action.
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> (11) The Disciplinary Authority shall consider the representation, if any, made by the municipal officer or other municipal employee in response to the notice under Sub-regulation (10) and determine what penalty, if any, should be imposed on the municipal officer or other municipal employee and pass appropriate orders on the case.
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> (12) Orders passed by the Disciplinary Authority shall be communicated to the municipal officer of other municipal employee who shall also be supplied with a copy of the report of the Inquiring Authority and where the Disciplinary Authority is not the Inquiring Authority a statement of its findings together with brief reasons for disagreement if any with the findings of the Inquiring Authority, unless they have already been supplied to him.

10. Having noticed the relevant provisions, we now pass on to consider the contentions raised on behalf of the appellant. Adverting to the first two contentions raised before us on behalf of the appellant, it may be stated that neither of them appear from the record to have been raised before the High Court. It was not the case of the appellant in the petition filed by him under Article 226 of the Constitution that since his appointment as an Assistant Teacher , was actually made by the

Commissioner, the Deputy Commissioner was not competent to dismiss him from service. What was asserted by him at that stage is contained in ground No. VI of the petition and may be reproduced below for facility of reference:

> Because, in any case respondent No. 3 has no jurisdiction to hear the appeal. Under Section 92 of the Delhi Municipal Corporation Act, 1957, the petitioner could be appointed only by the Commissioner and under Section 95 of the said Act, he should be the dismissing authority. In the present case, however, the Commissioner had by notification under Section 491 of the said Act, delegated his power to the Deputy Commissioner under Circular No. 4 (1)/58-Law Corporation 1 dated 7-4-1958. The dismissing order was made by the Deputy Commissioner as delegatee i.e. as exercising the powers of the Commissioner. The Commissioner, therefore, could not sit in appeal on such an order. Only the Standing Committee of the Corporation could have heard the appeal.

11. The omission to make the aforesaid averments in the writ petition regarding the incompetence of the Deputy Commissioner to pass the impugned order of dismissal from service and invalidity of Regulation 7 of the Regulations appears to be due to the fact that the appellant fully realised that none of these pleas could be tenable in view of the aforesaid order No. (1) 58 Law Corporation 1 dated April 7, 1958 made by the Commissioner delegating all his powers to the Deputy Commissioner, his actual appointment as an Assistant Teacher by the Deputy Commissioner and Regulation 7 of the Regulations which far from being repugnant to Section 95 of the Act is perfectly consistent with it as Sub-section (1) of that section itself makes a municipal employee liable to be compulsorily retired, removed or dismissed etc. by such authority as may be prescribed by the Regulations. The prohibition contained in the first proviso to this Sub-section is confined in its operation only to a case where an officer or employee of the Corporation is retired, removed or dismissed by an authority subordinate to that by which he was appointed. In the instant case, the appellant's appointment having been made by the Deputy Commissioner, who possessed plenary powers in that behalf by virtue of the aforesaid delegation order, there was neither any legal bar to the appellant's dismissal from service by that very authority nor a breach of the first proviso to Sub-section (1) of Section 95 of the Act.

12. The decision of this Court in The Management of D.T.U. v. B.B.L. Hajelay AIR 1972 SC 2452 sought to be relied upon by Mr. Ramamurthi related to an appointment which rested on a deeming provision and is not at all helpful to the appellant. Respondent No. 2 in that case was originally employed as a driver in the Delhi Road Transport Authority which had been constituted under the Delhi Road Transport Authority Act, 1950. By Section 516(1)(a) of the Delhi Municipal Corporation Act, 1957 which came into force in January, 1958, the Delhi Road Transport Authority Act, 1950, was repealed and the functions of the Delhi Road Transport Authority were taken over by the Corporation by virtue of several other provisions of the Act. Under Section 511 of that Act i. e. the Delhi Municipal Corporation Act, 1957, every officer and employee of the Transport Authority including respondent No. 2 stood transferred and became an officer and employee of the Corporation and under Section 92(1)(b) read with Section 516(2)(a) of the Act, the said respondent was to be deemed to have been appointed by the General Manager (Transport). The respondent in

that case thus being required by fiction of law to be taken to have been appointed by the General Manager, he could not have been removed from service in May, 1963 by the Assistant General Manager - an authority subordinate to the General Manager - in view of the first proviso to Sub-section (1) of Section 95 of the Act despite the fact that the functions of the General Manager had been delegated to the Assistant General Manager in May, 1961. In that case, it was made clear by this Court that the only consequence of the delegation order was that if after 1961. the Assistant General Manager had made the appointment of respondent No. 2, he would have no doubt been entitled to remove him from service but the position had to be determined with reference to the time when he was absorbed in the Corporation which was in January, 1958.

13. The judgment of this Court in Municipal Corporation of Delhi v. Ram Partap Singh (Civil Appeal No. 2449 (N) of 1969 delivered on January 8, 1976) (reported in AIR 1976 SC 2301) is also not helpful to the appellant as in that case, the appointment was in fact made by the Commissioner while the dismissal was by the Deputy Commissioner.

14. In view of the foregoing discussion, the first two contentions raised on behalf of the appellant which are totally misconceived are repelled.

15. The third contention advanced by Mr. Ramamurthi that the impugned order of the appellant's dismissal from service is vitiated as the disciplinary authority has neither recorded its findings with respect to the charge drawn up against the appellant as required by Regulation 8(9) of the Regulations nor has it given its reasons for passing the order cannot also be countenanced as it overlooks the decisions of this Court, which fully cover the case.

16. Regarding the first limb of the contention, it may be stated that although it may be necessary for the disciplinary authority to record its provisional conclusions in the notice calling upon the delinquent officer to show cause why the proposed punishment be not imposed upon him if it differs from the findings arrived at by the enquiring officer with regard to the charge, it is not obligatory to do so in case the disciplinary authority concurs with the findings of the enquiring officer. We are supported in this view by two decisions of this Court in State of Orissa v. Govinddas Panda. (Civil Appeal No. 412 of 1958 decided on December 10, 1962) (SC) and State of Assam v. Bimal Kumar Pandit . In Govinddas Panda's case (supra) where the notice issued under Article 311(2) did not expressly state that the State Government had accepted the findings recorded by the enquiring officer against the Government servant in question and where even the nature of the punishment which was proposed to be inflicted on him was not specifically and clearly indicated, this Court while reversing the conclusions of the Orissa High Court that the notice was defective and so the provisions of Article 311(2) had been contravened observed:

> In the context, it must have been obvious to the respondent that the punishment proposed was removal from service and the respondent was called upon to show cause against that punishment. On a reasonable reading of the notice, the only conclusion at which one can arrive is that the appellant (the State) accepted the recommendation of the Administrative Tribunal and asked the respondent to show cause against the proposed punishment, namely, that of removal from service.

17. In Bimal Kumar Pandit's case AIR 1963 SC 1612 (supra) while reversing the judgment and order of the High Court allowing the writ petition filed by the respondent against his reduction in rank on the ground that the notice served upon him under Article 311(2) of the Constitution was void as it did not expressly and specifically indicate either the conclusions of the dismissing authority or the findings recorded by the enquiring officer or that the dismissing authority accepted the findings of the enquiring officer and unless that course was adopted, it would not be clear that the dismissing authority had applied its mind and had provisionally come to some conclusion both in regard to the guilt of the public officer and the punishment which his misconduct deserved. The Constitution Bench of this Court observed:

> It may be conceded that it is desirable that the dismissing authority should indicate in the second notice its concurrence with the conclusions of the enquiring officer before it issues the said notice under Article 311(2). But the question which calls for our decision is if the dismissing authority does not expressly say that it has accepted the findings of the enquiring officer against the delinquent officer, does that introduce such an infirmity in the proceedings as to make the final order invalid? We are not prepared to answer this question in the affirmative. It seems to us that it would be plain to the delinquent officer that the issuance of the notice indicating the provisional conclusions of the dismissing authority as to the punishment that should be imposed on him obviously and clearly implies that the findings recorded against him by the enquiring officer have been accepted by the dismissing authority; otherwise there would be no sense or purpose in issuing the notice under Article 311(2).
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> At another place, the Court observed:
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> We ought, however, to add that if the dismissing authority differs from the findings recorded in the enquiry report, it is necessary that its provisional conclusions in that behalf should be specified in the second notice. It may be that the report makes findings in favour of the delinquent officer, but the dismissing authority disagrees with the said findings and proceeds to issue the notice under Article 311(2). In such a case, it would obviously be necessary that the dismissing authority should expressly state that it differs from the findings recorded in the enquiry report and then indicate the nature of the action proposed to be taken against the delinquent officer. Without such an express statement in the notice, it would be impossible to issue the notice at all. There may also be cases in which the enquiry report may make findings in favour of the delinquent officer on some issues and against him on other issues. That is precisely what has happened in the present case. If the dismissing authority accepts all the said findings in their entirety, it is another matter : but if the dismissing authority accepts the findings recorded against the delinquent officer and differs from some or all of those recorded in his favour and proceeds to specify the nature of the action proposed to be taken on its own conclusions, it would be necessary that the said conclusions should be briefly indicated in the notice. In this category of cases, the action proposed to be taken would be based not only on the findings recorded

> against the delinquent officer in the enquiry report, but also on the view of the dismissing authority that the other charges not held proved by the enquiring officer are according to the dismissing authority, proved. In order to give the delinquent officer a reasonable opportunity to show cause under Article 311(2), it is essential that the conclusions provisionally reached by the dismissing authority must, in such cases, be specified in the notice. But where the dismissing authority purports to proceed to issue the notice against the delinquent officer after accepting the enquiry report in its entirety, it cannot be said that the dismissing authority must say that it has so accepted the report. As we have already indicated, it is desirable that even in such cases a statement to that effect should be made. But we do not think that the words in Article 311(2) justify the view that the failure to make such a statement amounts to contravention of Article 311(2).... There is no doubt that after the report is received, appropriate authority must apply its mind to the report and must provisionally decide whether the findings recorded in the report should be accepted or not. It is only if the findings recorded in the report against the Government servant are accepted by the appropriate authority that it has to provisionally decide what action should be taken against him. But this does not mean that in every case, the appropriate authority is under a constitutional obligation to state in the notice that it has accepted the adverse findings recorded by the enquiring officer before it indicates the nature of the action proposed to be taken against the delinquent officer.

18. In the instant case, the incorrectness of the first limb of the contention is apparent from a bare reading of the aforesaid order passed by the Deputy Commissioner on May 20, 1969 which clearly states that he agrees with the findings of the enquiring officer. Reading the order as a whole, it becomes crystal clear that the disciplinary authority held the charge drawn up against the appellant as proved.

19. The second limb of the third contention raised on behalf of the appellant which also overlooks the decisions of the Constitution Bench of this Court does not commend itself to us. In this connection, we would like to make it clear that while it may be necessary for a disciplinary or administrative authority exercising quasi-judicial functions to state the reasons in support of its order if it differs from the conclusions arrived at and the recommendations made by the enquiring officer in view of the scheme of a particular enactment or the rules made thereunder, it would be laying down the proposition a little too broadly to say that even an order of concurrence must be supported by reasons. It cannot also, in our opinion, be laid down as a general rule that an order is a non-speaking order simply because it is brief and not elaborate. Every case, we think, has to be judged in the light of its own facts and circumstances. Reference in this connection may be made with advantage to a catena of decisions. In Bimal Kumar Pandit's case AIR 1963 SC 1612 (supra) it was categorically laid down by the Constitution Bench of this Court that it was not a requirement of Article 311(2) that in every case, the punishing authority should in its order requiring the civil servant to show cause give not only the punishment proposed to be inflicted on him but also the reasons for coming to that conclusion. In that case, it was clarified that the view is not justified that the appropriate authority must state its own grounds or reasons for proposing to take any specific action against the delinquent Government servant.

19-A. In State of Madras v. A.R. Srinivasan AIR 1966 SC 1827, the Constitution Bench of this Court while repelling the contention advanced on behalf of the respondent that the State Government's order compulsorily retiring him from service was bad as it did not give reasons for accepting the findings of the enquiring tribunal and imposing the penalty of compulsory retirement observed as follows:

> Mr. Setalvad for the respondent attempted to argue that the impugned order gives no reasons why the appellant accepted the findings of the Tribunal. Disciplinary proceedings taken against the respondent, says Mr. Setalvad, are in the nature of quasi-judicial proceedings and when the appellant passed the impugned order against the respondent, it was acting in a quasi-judicial character. That being so, the appellant should have indicated some reasons as to why it accepted the findings of the Tribunal, and since no reasons are given, the order should be struck down on that ground alone.
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> We are not prepared to accept the argument. In dealing with the question as to whether it is obligatory on the State Government to give reasons in support of the order imposing a penalty on the delinquent officer, we cannot overlook the fact that the disciplinary proceedings against such a delinquent officer begin with an enquiry conducted by an officer appointed in that behalf. That enquiry is followed by a report and the Public Service Commission is consulted where necessary. Having regard to the materiel which is thus made available to the State Government and which is made available to the delinquent officer also, it seems to us somewhat unreasonable to suggest that the State Government must record its reasons why it accepts the findings of the Tribunal. It is conceivable that if the State Government does not accept the findings of the Tribunal which may be in favour of the delinquent officer and proposes to impose a penalty on the delinquent officer, it should give reasons why it differs from the conclusions of the Tribunal, though even in such a case, it is not necessary that the reasons should be detailed or elaborate. But where the State Government agrees with the findings of the Tribunal which are against the delinquent officer, we do not think as a matter of law, it could be said that the State Government cannot impose the penalty against the delinquent officer in accordance with the findings of the Tribunal unless it gives reasons to show why the said findings were accepted by it. The proceedings are, no doubt, quasi-judicial, but having regard to the manner in which these enquiries are conducted, we do not think an obligation can be imposed on the State Government to record reasons in every case.

20. In Som Datt Datta v. Union of India while approving the English law and practice and overruling the contention advanced on behalf of the petitioner that the orders of the Chief of the Army Staff confirming the proceedings of the Court-Martial under Section 164 of the Army Act and the order of the Central Government dismissing the appeal of the petitioner under Section 165 of the Army Act were illegal and ultra vires as they did not give reasons in support of the orders, the Constitution Bench of this Court summed up the legal position as follows:

> Apart from any requirement imposed by the statute or statutory rule either expressly or by necessary implication, there is no legal obligation that the statutory tribunal should give reasons for its decision. There is also no general principle or any rule of natural justice that a statutory tribunal should always and in every case give reasons in support of its decision.

21. In Madhya Pradesh Industries Ltd. v. Union of India , this Court repelled the contention of counsel for the appellant that every order appealable under Article 136 of the Constitution must be a speaking order and the omission to give reasons for the decision is of itself a sufficient ground for quashing it and held that an order of an administrative tribunal rejecting a revision application cannot be pronounced to be invalid on the sole ground that it does not give reasons for rejection. While distinguishing the case of Harinagar Sugar Mills Ltd. v. Shyam Sunder Jhunjhunwala. where the Central Government reversed the decision of the State Government without giving reasons for reversal, this Court pointed out that there was a vital difference between the order of reversal by the appellate authority and the order of affirmance by the revising authority and that if the revising authority rejects a revision application stating that there was no valid ground for interference with the order of the subordinate authority in such a case, it could not be held that the order was arbitrary or that there was no trial of the revision application. Subba Rao, J. (as he then was) speaking for himself in that case observed:

> Ordinarily, the appellate or revisional tribunal shall give its own reasons succinctly; but in a case of affirmance where the original tribunal gives adequate reasons, the appellate tribunal may dismiss the appeal or the revision, as the case may be, agreeing with those reasons.

22. In Judicial Review of Administrative Action (Second Edition), Prof. S.A. de Smith has observed at page 418 as follows:

> If the record is incomplete (e. g. because reasons or findings of material fact are omitted), has the court power to order the tribunal to complete its record? It is common ground that the court has no inherent power to compel a tribunal to give reasons for its decisions....If, of course, a tribunal is required by statute to declare its reasons or its findings on the material facts, an order of mandamus may be obtained to compel the tribunal to perform its legal duty Where a tribunal that is not expressly obliged to give reasons for its decisions chooses not to give any reasons for a particular decision, it is not permissible to infer on that ground alone that its reasons for that decision were bad in law. Even if it gives reasons which are ex facie insufficient in law to support its decision, the court will not necessarily assume that these are the sole reasons on which the tribunal has based its decision. (See Cf. Davies v. Price (1958) 1 WLR 434 at 440 and R. v. Minister of Housing and Local Government, ex. p. Chichestar R.D.C (1960) 1 WLR 587).

23. Before concluding the discussion in regard to the third contention, we may point out that none of the decisions viz. Sardar Govindrao v. State of Madhya Pradesh.

; Bhagat Raja v. The Union of India ; Travancore Rayon Ltd.s v. Union of India AIR 1967 SC 862; Mahabir Prasad Santosh Kumar v. State of U.P. ; Rangnath v. Daulatrao : and The Siemens Engineering & Manufacturing Co. of India Ltd v. The Union of India on which Mr. Ramamurthi has heavily leaned has anything to do with disciplinary proceedings. As such, they have little bearing on the point with which we are at present concerned.

24. We would also like to point out that the observations in Travancore Rayon Ltd. v. Union of India. that in Bhagat Raja v. The Union of India this Court in effect overruled the judgment of the majority in Madhya Pradesh Industries Ltd. v. Union of India. seem to have crept therein through some oversight. A careful perusal of the decision in Bhagat Raja v. The Union of India (supra) would show that this Court did not make any observations therein which can be interpreted as Overruling the majority judgment in Madhya Pradesh Industries Ltd. v. Union of India (supra). It is also worthy of note that in Bhagat Raja's case (supra), the amendment of Rule 55 of the Mineral Concession Rules, 1960 introduced in July, 1965 laid down a special procedure in regard to revisions. It required the Central Government to send copies of the application for revision to all the impleaded parties including the person to whom a lease had been granted calling upon them to make such comments as they might like to make within three months from the date of the issue of the communication and on receipt of the comments from any party to send copies thereof to the other parties calling upon them to make further comments as they might like to make within one month from the date of the issue of the communication. It also provided that the revision application, the communications containing comments and counter comments referred to above would constitute the record of the case. Thus under the amended rule, the party whose application was rejected got an ample opportunity of showing to the Central Government by reference not only to the record which was before the State Government but by reference to the fresh material as well that the State Government was misled in its consideration of the matter or that its decision was based on irrelevant considerations. This is evident from the following observations made in Bhagat Raja v. The Union of India (supra):

> The old Rule 55 was replaced by a new rule which came into force on 19th July, 1965. Whereas the old rule directed the Central Government to consider comments on the petition of review by the State Government or other authority only, the new rule is aimed at calling upon all the parties including the State Government to make, their comments in the matter and the parties are given the right to make further comments on those made by the other or others. In effect, the parties are given a right to bring forth material which was not before the State Government. It is easy to see that an unsuccessful party may challenge the grant of a lease in favour of another by pointing out defects or demerits which did not come to the knowledge of the State Government. The order in this case does not even purport to show that the comments and counter comments which were before the Central Government in this case, had been considered.

25. The above observations leave no manner of doubt that it was in view of the amendment in Rule 55 of the Mineral Concession Rules, 1960 that the decision in Bhagat Raja v. The Union of India was different from Madhya Pradesh Industries Ltd. v. Union of India which had been rendered on the

unamended Rule 55 of the said Rules. In our opinion, therefore, the observations made in Madhya Pradesh Industries Ltd. v. Union of India (supra) contain a correct statement of law.

26. In view of the foregoing we do not find any merit in the third contention raised on behalf of the appellant.

27. This brings us to the last contention raised by Mr. Ramamurthi that the writ petition should not have been dismissed by the High Court in limine in view of the fact that it contained allegations of mala fides against the respondents. We are unable to accept this contention. It has been held time and again by this Court that the High Court would be justified in refusing to carry on investigation into the allegations of mala fides if necessary particulars of the charge making out a prima facie case are not given in the writ petition. Keeping in view the well established rule that the burden of establishing mala fides lies very heavily on the person who alleges it and considering all the allegations made by the appellant in regard thereto, we do not think that they could be considered as sufficient to establish malus animus. The High Court was. therefore, not wrong in dismissing the petition in limine on seeing that a prima facie case requiring investigation Had not been made out.

28. In the result, the appeal fails and is hereby dismissed but in the circumstances of the case without any order as to costs.