

# **Arun S/O Mahadeorao Damka vs Additional Inspector General Of Police ... on 8 May, 1986**

**Equivalent citations: 1986 AIR 1497, 1986 SCR (2)1101**

**Author: A.P. Sen**

**Bench: A.P. Sen, B.C. Ray**

PETITIONER:

ARUN S/O MAHADEORAO DAMKA

Vs.

RESPONDENT:

ADDITIONAL INSPECTOR GENERAL OF POLICE & ANR.

DATE OF JUDGMENT 08/05/1986

BENCH:

SEN, A.P. (J)

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SEN, A.P. (J)

RAY, B.C. (J)

CITATION:

1986 AIR 1497                      1986 SCR (2)1101

1986 SCC Supl. (3) 696 1986 SCALE (1)796

ACT:

Constitution of India, 1950, Arts. 226 and 227 -  
Necessity of High Courts to make speaking orders while  
dismissing petitions.

HEADNOTE:

The petitioner, who had a brilliant record in service, was reverted on Jan. 4, 1985 from the post of Police Inspector to that of Police Sub-Inspector with the endorsement that such reversion would not disqualify him for being considered for promotion to the post of Police Inspector in future. He made a detailed representation contending that his reversion was wholly unjustified. Since he did not receive any redress of his grievance, he moved the Nagpur Bench of the Bombay High Court by a petition under Art. 226 of the Constitution challenging the order of reversion as being violative of Art. 311(2) of the Constitution. The High Court dismissed the petition in

limine.

In appeal to the Supreme Court it was contended: (i) that the reversion of the appellant from the post of Officiating Police-Inspector to that of Police Sub-Inspector was by way of punishment and was thus violative of Art. 311(2) of the Constitution; and (ii) that the High Court was not justified in dismissing the writ petition in limine.

Allowing the appeal,

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HELD: 1. The impugned order passed by the High Court dismissing the writ petition in limine by the use of a laconic word "rejected" cannot be sustained. It does not inspire public confidence in administration of justice if the High Courts were to reject the writ petitions without due application of mind even though substantial questions were raised in the writ petitions. It was not right on the part of the High Court to have declined to entertain and decide the

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question as to whether the impugned order of reversion was liable to be struck down as offending against Art.311(2) of the Constitution. The writ petition did raise an arguable question and it deserved hearing upon merits. [1104 G-H; 1105 A-B]

2.1 In a hierarchical system of Courts which exists in our country, all courts and tribunals including the High Court exercising judicial and quasi-judicial functions owe it a duty to pass reasoned orders. Therefore, while dismissing a writ petition summarily, the High Court must record reasons briefly. A brief statement of reasons would greatly assist the Supreme Court in understanding the High Court's thought process which, in turn facilitates a quick and satisfactory disposal of Special Leave Petitions. [1105 B-C; E-G]

2.2 The High Courts should understand this Court's difficulty in unravelling the reasons for summary dismissal in the absence of a brief statement of reasons. It would considerably lighten the task of Supreme Court if the High Courts while dismissing a writ petition were to indicate in a few words the contention(s) urged and their views that the contentions cannot prevail. [1105 G; D]

In the instant case, the Court directed the High Court to admit the writ petition to its file and dispose it of in accordance with law. [1106 A-B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1963 of 1986.

From the Judgment and Order dated 19th September, 1985 of the Bombay High Court in Writ Petition No. 337 of 1985.

U.R. Lalit, S.V. Deshpande, Dr. N.M. Ghatate and S. Ray for the Appellant.

V.N. Ganpule, A.M. Khanwilkar and A.S. Bhasme for the Respondents.

The Judgment of the Court was delivered by SEN, J. This is a petition for grant of special leave under Art. 136 of the Constitution directed against the judgment and order of the Bombay High Court dated September 19, 1985 dismissing a petition filed by the petitioner under Art. 226 of the Constitution challenging an order of the Additional Inspector General of Police, Bombay dated January 4, 1985 for his reversion from the post of Offg. Police Inspector to that of Sub-Inspector of Police as being violative of Art. 311(2) of the Constitution. By the impugned order, the High Court has dismissed the Writ Petition in limine just by the use of a laconic word 'rejected'.

The Facts. The petitioner was promoted as Offg. Police Inspector on May 22, 1983, on the recommendation of the Selection Board upon reviewing his case. While he was posted as Police Inspector at Ramtak in 1982, he successfully handled the difficult situation arising at Kanhan Coal Mines where there was a quarrel between two unions, namely I.T.U.C. and I.N.T.U.C. and received a cash prize of Rs. 50 and 'C' Note from the Superintendent of Police, Nagpur District (Rural) by order dated October 28, 1983. He also received several commendations for tactfully handling the situation at Kamptee on the eve of Dussehra, Muharram, Ganeshpooja and Bakr-Id festivals in the years 1982 and 1983. During the period from February to March 1983, he was deputed to Delhi as a Special Security Officer for the Seventh Non-Aligned Conference and was posted at Vigyan Bhawan for making security arrangements. All of a sudden on January 4, 1985, the petitioner was served with the impugned order of reversion by the Additional Inspector General of Police, Bombay from the Post of Police Inspector to that of Police Sub-Inspector with the endorsement that such reversion would not disqualify him for being considered for promotion to the post of Police Inspector in future.

It appears from the return filed by the State Government in the High Court that this reversion was based upon the report of the Selection Committee that he was not fit to be retained as Police Inspector. The recommendation was based on the Annual Confidential Reports for the years 1982 and 1983 to the effect that the petitioner was given to heavy drinking and had practically become a physical wreck and though young he was wholly unfit to hold independent charge. The adverse entries in the Annual Confidential Reports for the years 1982 and 1983 were communicated to the petitioner in December 1984.

The petitioner was given two months' time to make his representation against the adverse entries i.e. time till February 1985.

The petitioner contends that the adverse remarks in his Annual Confidential Reports for the years 1982 and 1983 were wholly baseless and he accordingly within time prescribed, made a detailed representation pointing out that his reversion on the ground of the Annual Confidential Reports was

wholly unjustified. He also annexed with the representation all the documents which he filed along with the Writ Petition, showing that the remarks in his Annual Confidential Reports that he was unfit for service were uncalled for and prayed that the order of reversion be stayed till the consideration of his representation. Not having received any redress of his grievance the petitioner moved the Nagpur Bench of the Bombay High Court by a petition under Art. 226 of the Constitution. The High Court, however, dismissed the Writ Petition in limine. On a perusal of the return filed by the State Government in the High Court, it is apparent that the reversion of the petitioner was solely based on the recommendation of the Selection Board which appears to have reviewed his case for retention on the post of Police Inspector and took into consideration the Annual Confidential Reports for the years 1982 and 1983.

The only contention before us is that the reversion of the petitioner from the post of Offg. Police Inspector to that of Police Sub-Inspector was by way of punishment and was thus violative of Art. 311(2) of the Constitution. It is urged that the High Court was not justified in dismissing the Writ Petition in limine.

We refrain from expressing any opinion whether the impugned order was by way of punishment or not. All that we wish to say is that we are distressed to find that the impugned order passed by the High Court dismissing the Writ Petition in limine by the use of a laconic word 'rejected' cannot be sustained. It does not inspire public confidence in administration of justice if the High Courts were to reject the Writ Petitions without due application of mind even though substantial questions were raised in the Writ Petitions. It was not right on the part of the High Court to have declined to entertain and decide the question as to whether the impugned order of reversion was liable to be struck down as offending against Art. 311(2) of the Constitution. The Writ Petition did raise an arguable question and it deserved hearing upon merits.

In a hierarchical system of Courts which exists in our country, all courts and tribunals including the High Court exercising judicial and quasi-judicial functions owe it a duty to pass reasoned orders. As it is, there is a growing tendency to file indiscriminate petitions under Art. 136 of the Constitution and this Court is finding it extremely difficult to tackle with the backlog of cases because of the precious time occupied in disposal of Special Leave Petitions which, we regret to say, are wholly devoid of substance and of a frivolous nature. It would considerably lighten the task of this Court if the High Courts while dismissing a Writ Petition were to indicate in a few words the contention(s) urged and their views that the contention(s) cannot prevail. We are distressed to find that there is a growing tendency in some of the High Courts to dismiss petitions filed under Art. 226 or 227 of the Constitution in limine without a speaking order just by the use of a laconic word 'rejected' or 'dismissed'.

How often must this Court decree that while dismissing a Writ Petition summarily, the High Court must record reasons briefly? We regret that this has to be stated once again. We trust the High Courts to follow the law laid down by this Court which, indeed, is obligatory upon them under Art. 141 of the Constitution. A brief statement of reasons would greatly assist this Court in understanding the High Court's thought process which, in turn facilitates a quick and satisfactory disposal of Special Leave Petitions. We understand the difficulty of the High Courts in writing long orders while

dismissing Writ Petitions summarily. The High Courts should understand our difficulty in unravelling the reasons for summary dismissal in the absence of a brief statement of reasons. These are hallmarks of a disciplined judicial process.

Since, in the instant case, the Writ Petition did involve a question deserving of careful consideration, we grant special leave under Art. 136 of the Constitution and set aside the order of the High Court of summary dismissal. We direct the High Court to admit the Writ Petition to its file and dispose it of in accordance with law. The petitioner shall be entitled to his costs. Costs quantified at Rs.1,000.

M.L.A.

Appeal allowed.