

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.14083 OF 2013

DATE OF DECISION: JANUARY 23, 2015

Inder SinghPetitioner

Versus

The State of Haryana and anotherRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.BS Rathee, Advocate for the petitioner.

Mr.Ravi Pratap Singh, Assistant Advocate General,
Haryana.

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TEJINDER SINGH DHINDSA, J.

The petitioner, who was serving as Clerk under the Haryana State Agriculture Department, was imposed the extreme penalty of removal from service, vide order dated 11.3.2005 passed by the Director, Agriculture Haryana. An appeal preferred by the petitioner against the penalty of removal was dismissed by the Financial Commissioner and Principal Secretary, Agriculture Department, Haryana, vide order dated 24.7.2007.

2. The instant writ petition has been filed impugning the afore-noticed orders dated 11.3.2005, Annexure P7, and dated 24.7.2007, Annexure P9.

3. Having heard learned counsel for the parties at length, I am of the considered view that the legality of the order of

removal from service dated 11.3.2005 at Annexure P7 passed by the Director, Agriculture would not require any examination on merits at this stage. Such view is being taken for the reason that the facts of the present case make out a case for remand to respondent No.1 i.e. Financial Commissioner and Principal Secretary, Agriculture Department, Haryana for re-consideration.

4. The admitted position of fact is that departmental proceedings were initiated against the petitioner by framing the following articles of charge:

1. The employee has been transferred from Gohana to Sonapat vide order dated 18.1.1991 and he reported at Sonapat on 04.02.1991 and did not hand over the charge till 02.09.1994 in the office of STO, Gohana.
2. The employee remained absent voluntarily from 02.09.1994 to 30.10.1994.
3. Voluntarily remained absent and did not reply the letters in time.
4. Not taking interest in the work and disobeying the orders and causing hindrance in the Government work.
5. Not deposited the loan amount ₹25145/- through the office of Deputy Director, Sonapat taken from the Society.

5. Such departmental proceedings have finally culminated in the passing of the order of removal from service. Against the order dated 11.3.2005 imposing the penalty of removal from service, the petitioner concededly preferred appeal

before the State Government, dated 17.5.2005 at Annexure P8. Perusal of the same would reveal that the petitioner, apart from raising submissions with regard to the charges levelled, had also furnished justification for his absence from duty on account of unavoidable family circumstances and on account of the serious illness of his wife. Still further, a specific contention as regards quantum of punishment i.e. removal of service being not commensurate to the charges pressed against him had been made.

6. The appeal preferred by the petitioner has been dealt with and rejected by the Financial Commissioner and Principal Secretary, Agriculture Department vide impugned order dated 24.7.2007 and the operative part thereof reads in the following terms:

“After examining all the fact and record of the case the government did not find any such facts due to which the punishment awarded by Director Agriculture Haryana can be reduced. So the government dismisses the appeal filed by Shri Inder Singh Clerk.”

7. Suffice it to observe that the order passed by the Appellate Authority dated 24.7.2007 at Annexure P9 is a cryptic non-speaking order.

8. The question as regards reasons to be assigned by the Appellate Authority even while affirming an order passed by the Disciplinary Authority came up for consideration before the Hon'ble Supreme Court in *Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney*

& others, 2009 (5) SLR 512 and it was observed as under:

"8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

*9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of **S.N.Mukherjee vs. Union of India** reported in (1990) 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities.*

10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

*No doubt, in **S.N. Mukherjee's case (supra)**, it has been observed (vide para 36) that:*

"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean

that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority."

9. Perusal of the impugned order dated 24.7.2007 passed by the Appellate Authority would clearly reveal that the submissions/grounds raised by the petitioner in the appeal have not even been adverted to much less dealt with. The impugned order passed by the Appellate Authority as such cannot sustain.

10. For the reasons recorded above, the present writ petition is partly allowed and the order dated 24.7.2007 passed by the Financial Commissioner and Principal Secretary, Agriculture Department, State of Haryana at Annexure P9 is set aside. The matter is remanded back to respondent No.1 to pass an order afresh after taking into consideration all the submissions and contentions raised by the petitioner in the appeal dated 17.5.2005 at Annexure P8. Let such final order be passed within a period of three months from the date of receipt of a certified copy of this order.

11. Instant writ petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

JANUARY 23, 2015
SRM

Note: *Whether referred to the Reporter? (Yes/No)*