

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 26.09.2016

CWP No.875 of 1998 (O&M)

Puran Chand

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ashish Gupta, Advocate, for the petitioner.

Ms. Shruti Jain Goel, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The impugned order (Annex P-7) to say the least is cryptic and non-speaking and does not disclose the process of reasoning why annual increments to the petitioner should not have been granted from September, 1995 on re-designation of post and for award of higher standard pay scale for completing 20 years of regular satisfactory service.

Since the order is non-speaking, it is not open to judicial scrutiny, as the Court does not know what weighed in the mind of the authority in deciding against the interest of the petitioner. If there are executive instructions on the subject matter covering the point in issue, then it was not enough to mention them without referring to their content, but also to have explained how they would apply to non-suit the petitioner by recording reasons in writing. The necessity of recording reasons strikes at the heart of unreasonableness and arbitrariness and the District Education Officer, Kaithal should acquaint himself with the law laid down by the Constitution Bench in S.N.Mukherjee Vs. Union of India, AIR 1990 SC

1984 of the necessity of recording reasons in order to visit adverse consequences on an employee.

Consequently, while setting aside the impugned order (Annex P-7), the case is remanded to the competent authority to pass a fresh order in accordance with law after recording reasons. This exercise be completed within two months after hearing the petitioner. In case, the petitioner is found entitled to the benefit, the same may be granted to him within a period of next one month and his pension and pensionary benefits be re-fixed accordingly.

With these observations and directions, the petition stands partially allowed and disposed of as above.

26.09.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*