

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.11341 of 2008(O&M)

Date of Decision:-21.09.2016

Prem Nath.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ashok Sharma Nabhewala, Advocate for the Petitioner.

Mr. I.P. Goyat, Additional Advocate General, Punjab.

JASWANT SINGH, J (ORAL)

Challenge in the present petition by the petitioner is to the punishment order dated 10.02.2005 (**P-32**) whereby his services as Helper have been terminated on the basis of Ex-Parte enquiry report holding him guilty of absence from duty w.e.f. 17.07.1991 to 24.01.1992 and the order dated 30.04.2007 (**P-36**) passed by the Director State Transport, Punjab wherein statutory appeal filed by the petitioner has been dismissed without giving any reasoning.

A bare perusal of the facts would show that the petitioner has approached this Court twice before filing this petition for decision of his appeal on merits. However, on both the occasions, respondent had passed a non speaking order which was set aside on both the occasions by Division Benches of this Court on 26.5.2006 passed in CWP No.7737 of 2006 and

19.03.2007 passed in CWP No.4601 of 2007 and consequently, respondent

was directed to decide the appeal afresh on merits. Unexpectedly, despite the directions given by this Court, the respondent has again passed the impugned order P-36, which on a bare reading is completely non speaking one and against the letter and spirit of the previous orders passed by Division Benches.

While reiterating the aforementioned facts learned Counsel for the petitioner has restricted his challenge to appellate order (P-36) and has relied upon judgment passed by Hon'ble Supreme Court in **MMRDA Officers Association Vs. Mumbai Metropolitan Regional Development Authority & Anr. 2005(2) SCC 235** and a judgment passed by this Court in **Smt. Kailash Sharma Vs. State of Punjab through Secretary to Govt. of Punjab, Education Department 2004(2) SLR 50** to contend that failure to give reasons in an order amounts to denial of justice and right to reason is an indispensable part of a sound judicial system. Thus, it has been argued that the impugned order passed by respondent no.2 suffers from patent illegality and perversity and therefore is liable to be set aside.

On the other hand , learned Counsel for the respondent State has submitted that the order passed by respondent no.2 is a speaking order and does not warrant any interference from this Court.

After hearing learned Counsel for the parties and perusing the paper book, this Court is of the considered opinion that the present petition is liable to be allowed and impugned order deserves to be set aside. Without going into the merits or demerits of the case or the appellate order (P-36), lest it takes away a valuable right of statutory appeal from the petitioner, and especially when it is apparent that the impugned appellate order (P-36) is a non speaking one and respondent State is not in a position

to defend such a cryptic order, it is just and appropriate to remand the matter back after quashing the impugned order Annexure **P-36**. In the present case, a private party/poor employee (allegedly with four unmarried daughters) and also stated to have reached the age of superannuation has been put to unnecessary litigation by the respondent, whose grievance has not been adjudicated by applying a conscious judicious mind, as envisaged under the relevant statutory rules.

Accordingly, the present petition is allowed and case is remanded back to Appellate Authority to decide the appeal afresh after giving due opportunity to petitioner to present his case and same be decided preferably within a period of three months from the date of receipt of certified copy of this order, subject to payment of Rs.10,000/- as costs to be paid by the respondents by way of bank draft to the petitioner, on the first date of hearing when the appeal is listed before the Appellate Authority. The date of first date of hearing be notified to the petitioner through a registered notice.

Disposed of in the above terms.

(JASWANT SINGH)
JUDGE

September 21, 2016
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes / No</i>
<i>Whether Reportable</i>	<i>Yes / No</i>