

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

Date of decision: 01.09.2016

CWP No.19848 of 2013

Hawa Singh

...Petitioner

Vs.

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. C.M.Chopra, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

It has been repeatedly held by courts especially after the Constitution Bench decision in S.N.Mukherjee Vs. Union of India, AIR 1990 SC 1984 that an administrative order, which entails adverse civil consequences on the person aggrieved has to be a reasoned order since assigning reasons is the heart of the rule of law. This is a legal necessity and time tested compulsion which has to be honoured by the authorities. The order impugned in this petition discloses complete lack of application of mind since it is not supported by reasons which might disclose what weighed in the mind of the competent authority while dismissing the representation. Even the grounds taken in the representation have not been noticed or dealt with in the order dated 20.03.2013 passed by the Director, Treasury & Accounts Department, Haryana, Chandigarh. The order dated 20.03.2013 reads as follows:

“Hon’ble Punjab and Haryana High Court vide order dated 17.11.2012 in CWP No.22530 of 2012 ‘Hawa Singh Vs. State of Haryana’ directed as under:

“In the light of the statement made by the counsel for the petitioner and without commenting upon the merits of the case, the present petition is disposed of with liberty to the petitioner to file a detailed representation to the Director, Treasury & Accounts Department, Haryana – respondent No.2 within a period of four weeks from today. If such a representation is made, the same shall be considered and decided by the said respondent within a period of four months of submission of such representation. Decision so taken be conveyed to the petitioner forthwith.”

In view of the above direction, Sh. Hawa Singh, Assistant Superintendent Treasury made representation dated 19.11.2012 to this office which was received in the office on 23.11.2012, which was considered and decided that Sh. Hawa Singh, Assistant Superintendent Treasury has been promoted from District Treasurer as per Government rules/instructions/reservation policy. He has been rightly promoted as Assistant Superintendent from District Treasurer on 13.10.2011. Therefore, his representation dated 19.11.2012 is rejected.”

The order in all the accounts fails to satisfy the standards expected from an authority exercising quasi judicial powers in settling rights of the petitioner in a fair and proper manner. Moreover, the order has been passed without affording an opportunity of hearing to the petitioner, which is an event equally fatal to the order.

As a result of the foregoing reasons, while partially allowing the writ petition, the order dated 20.03.2013 (Annex P-23) is quashed as illegal and arbitrary. The matter is remitted to respondent No.2 to pass a fresh order in accordance with law after hearing the petitioner on his representation. Respondent No.2 will apply his mind and record reasons for reaching the conclusions he may arrive at. Thus, without expressing any opinion on merits of the case, it is ordered that the entire exercise be

completed on remand within two months from the date of receipt of certified copy of this order. The final order made would be communicated to the petitioner forthwith. In case, relief is found due, then there would be no necessity of passing a reasoned order and relief can be granted by issuing an office order. The necessity of recording reasons would arise only if the order proposed to be passed is adverse to the interest of the petitioner.

01.09.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*