

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

**CWP No.5163 of 2016
Date of decision: 17.3.2016**

Anjla Arora

... Petitioner

Versus

The State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.K. Walia, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. After hearing Mr. Walia appearing for the petitioner and having read the impugned order dated November 2, 2015 [Annex P-4/T] in English and having had the original in Punjabi read out in Court with due attention paid by Mr. Inqulab Nagpal, learned Assistant Advocate General, Punjab, this Court is of the considered view that the order bears virtually no stamp of probity or even discloses the rudimentary standards of due application of mind by the person who made the decision affecting adversely the rights of the petitioner. It has not been explained in as many words as to how a senior was ignored when junior was promoted to the higher post and what is meant by the cut off date which held back the petitioner from due consideration for promotion on the basis of accrued seniority. No reasons are forthcoming from the order as to why only the promotions made in the year 2012 have been reviewed in which Science Mistresses up to seniority position No.1602 have been found eligible for

promotion while others not and what is the basis of the classification.

The impugned order tells us nothing of this and it is thus difficult to review judicially.

2. The claim of the petitioner is for ante-dated promotion from the date her juniors were promoted in the year 2008 then what is the relevance of the month May 2012 to reject her case even if the directions of this Court in CWP No. 19832 of 2003 (Charan Dass Sharma v. State of Punjab), decided on July 9, 2004 have to be implemented faithfully even then no reason is discernible on record for this Court to easily understand what exactly has weighed in the mind of the Deputy Director (School Administration) Punjab in passing the impugned order dated November 2, 2015. It is also not clear whether the Deputy Director (School Administration), Punjab was the competent authority to pass the order or is the competent authority the State Government acting through the Secretary of the department since the orders in Smt. Gursharan Kaur's case were passed by the Principal Secretary to Government of Punjab in the Department of School Education on January 1, 2015. There is yet another reason why the order deserves to be set aside which is for violation of the rule *audi alteram partem*. The petitioner was not heard when her valuable rights were being decided behind her back.

2. Notice of motion.

3. On the asking of Court, Mr. Inqulab Nagpal, AAG, Punjab accepts notice on behalf of the respondents and waives service on them.

4. Since the order is ex facie non-speaking in the sense that it does not disclose reasons which have weighed in the mind of the author

to conclude that the petitioner's representation deserves to be rejected, the same is not sustainable.

5. The requirement and the necessity of recording reasons in an administrative order is the heart of the rule of law of reasonableness and for courts to be guided by the law laid down by the constitution bench of the Supreme Court on the proposition in **S. N. Mukherjee v. Union of India**, AIR 1990 SC 1984. The Supreme Court observed thus:-

“The requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a Court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy.”

6. For want of reasons duly recorded in writing, the apparent deficiencies and the incurable lacunas found in the impugned order, the writ petition is partially allowed with a direction to the competent authority to revisit the case of the petitioner for ante-dated promotion and to pass a fresh order in accordance with law indicating clearly the reasons for grant or denial of relief. The exercise be redone within two months from the date of receipt of certified copy of this order. The order must contain reasons assigned to arrive at the conclusions drawn from relevant facts, if it is to survive judicial scrutiny. As a result of the above

discussion, the impugned order dated November 2, 2015 is quashed. If the petitioner makes a request for personal hearing, the same shall be allowed.

(RAJIV NARAIN RAINA)
JUDGE

17.3.2016
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