

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 13824 of 2016
Date of decision: 11.07.2017

Bijender

....Petitioner(s)

Versus

Chaudhary Devi Lal Cooperative Sugar Mills Ltd. and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Harish Bhardwaj, Advocate,
for the petitioner.

Mr. Deepak Balyan, Advocate,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of three writ petitions i.e. CWP Nos. 13824, 17739 and 17740 of 2016 as common questions of facts and law are involved in all the writ petitions. For reference, ***CWP No. 13824 of 2016, Bijender vs. Chaudhary Devi Lal Cooperative Sugar Mills Ltd. and another*** is being taken up.

Challenge in the present writ petition is to the order dated 20.04.2016 (Annexure P-10) whereby, the petitioner has been reverted back to the post of Khalasi (Regular Permanent) from the post of Fitter-III (Electric).

It is not disputed that prior to the issuance of the impugned order, a show cause notice dated 08.09.2015 (Annexure P-8) was issued to the petitioner by the Managing Director of the respondent. The petitioner filed his reply dated 18.09.2016 (Annexure P-9) whereby, he gave his

explanation as to why the show cause notice be filed. The Managing Director passed the reversion order on the cursory reasoning that the reply is not satisfactory and accordingly the petitioner was reverted back to his previous post. Resultantly, the order cannot be termed as non-speaking and without containing any reasons.

It is settled principle that even a administrative order has to contain reasons. Reference can be made to the judgment of the Apex Court in ***M/s. Kranti Associates Pvt. Ltd. and another vs. Sh. Masood Ahmed Khan and others, 2010 (9) SCC 496*** wherein the following principles have been laid down:-

“a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a

component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to [Article 6 of European Convention of Human Rights](#) which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

Counsel for the respondents has very fairly conceded that in similar circumstances in **CWP No. 13641 of 2016, Rakesh vs. Chaudhary Devi Lal Cooperative Sugar Mills Ltd.** decided on 12.05.2017, similar relief was granted and the order was set aside.

Accordingly, the present writ petitions are allowed. Order dated 20.04.2016 (Annexure P-10) is set aside. However, liberty is granted to the Managing Director of the respondent to pass a fresh order, if so warranted and decide the issue afresh, if so desired.

11.07.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No