

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

CWP No.19199 of 2013

Date of Decision:30.03.2017

Sukhbir Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Suresh Kumar Redhu, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has questioned the validity of enquiry report, punishment order, period of suspension from 1.2.2011 to 21.02.2011 as spent on duty and also rejection of the petitioner's appeal dated 29.3.2012.

The petitioner while working as EHC was subjected to disciplinary proceedings. It was concluded by imposing the penalty of censure by the disciplinary authority on 31.1.2012 and further suspension period has been treated as suspension only. Feeling aggrieved by the order of disciplinary authority, the petitioner preferred an appeal before the appellate authority. The appellate authority passed the following order:

“Please refer to your office memo No.4040-H dated 15.03.2012 on the subject noted above.

I have considered the appeal of EHC Sukhbir Singh No.755/RTK and reject it being devoid of merits. The Ch. Roll, fauji Missal pages 01 to 242 and DE file pages 01 to 174 received vide your office memo under reference are returned herewith.

The appellant may be informed accordingly.”

Hence, the present petition.

Learned counsel for the petitioner submitted that in an identical circumstances in the case of one Shri Suresh Kumar, the appellate authority has considered the suspension period as duty wherein also the punishment was imposed as censure (Annexure P-5). Whereas in the case of the petitioner, the same has been rejected. It was further contended that though the petitioner has raised number of contention before the appellate authority but non of the contention has been considered by the appellate authority. Hence, the order of the appellate authority is liable to be set aside.

Per contra, learned counsel for the respondents submitted that question of discrimination between two sets of employees in the disciplinary proceedings would not arise it all depends on facts and circumstances. The petitioner cannot compare his case with one Shri Suresh Kumar. It was further contended that whenever appellate authority is agreed with the disciplinary authority, he need not assign reasons. Therefore, the petitioner has not made out a case so as to interfere with the disciplinary and appellate authorities orders.

Heard learned counsel for the parties.

Perusal of appellate authority order quoted (supra), it is evident that the appellate authority has not considered the contentions raised by the petitioner in his appeal. At this stage, it is relevant to quote Rule 16.31 of the Punjab Police Rules, 1934 which reads as under:

“Orders of appeal: Every order passed in appeal shall contain the reasons thereof. A copy of every appellate order and the reasons therefore shall be given free of cost to the appellant.”

The appellate authority is exercising quasi judicial function in deciding the appeal. Perusal of appellate authority order, it is evident that no reasons have been stated. The object of filing appeal is to consider each of

the contentions raised. This Court in the case of **Paramjeet Singh** v. **State of Punjab and others**; 1996 (1) RSJ 515 in an identical matter quashed the order of appellate authority on the ground that there is no application of mind on the part of the appellate authority. That apart Supreme Court time and again held that even an administrative order is required to be reasoned order. When the appellate authority is exercising quasi judicial function under statutory rule, it is bounden duty to assign the reason/s.

Accordingly, appellate authority order dated 29.3.2012 (Annexure P-4) is set aside and the matter is remanded to the appellate authority to consider the petitioner's appeal afresh within a period of three months from today with reference to Rule 16.31 of the Punjab Police Rules, 1934.

Petition stands allowed.

30.03.2017

rajeev

Whether speaking/reasoned

Yes/No

(P.B. Bajanthri)
Judge

Whether reportable

Yes/No