

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No.27115 of 2015

Date of decision: 02.08.2017

Gopi Ram Verma

...Petitioner

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Mani Ram Verma, Advocate, for the petitioner.

Mr.Harish Rathee, Sr.DAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

Petitioner challenges the order dated 19.05.2015 (Annexure P-11) passed by the Additional Chief Secretary, whereby the appeal of the petitioner was dismissed, apart from the order dated 08.10.2013. The reasoning given by the Appellate Authority reads as under:

“I have gone through the records and the orders of DGFS. Since, no new points have been raised in the appeal. All the issues have been considered in the orders passed by DGFS. The recovery orders is well reasoned and as per norms fixed by the department. Accordingly, I don't see any reason to interfere. However, his claim that the cost of empty bags is Rs.0.50 per bag instead of Rs. 1.00 per bag is correct and hence, the recoverable amounts is reduced by Rs.8950/- which comes to Rs.9,24,274/- instead of Rs.9,33,224/-. Keeping in view the facts explained, the order of DGFS is amended to this extent.

I order accordingly.”

It is apparent that the said authority has not applied its mind to the appeal whereby as much as Rs.9,24,274/- was sought to be recovered from the petitioner. It has been time and again held that reasons have to be mentioned even for administrative decisions, if the same affect anyone adversely. The Apex Court in *M/s Kranti Associates Pvt. Ltd. & another*

Vs. Masood Ahmed Khan & others (2010) 9 SCC 496, has laid down the following principles:

“51. Summarizing the above discussion, this Court holds:

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".

The reasoning given by the Appellate Authority is only stamping the order and approving it, without application of mind and

accordingly, the same cannot be sustained. Consequently, the order dated 19.5.2015 (Annexure P-11) is, hereby, quashed. The said authority shall decide the appeal afresh within a period of 3 months from the receipt of certified copy of this order, giving valid reasons.

With the above-said direction, the present writ petition stands allowed.

02.08.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*