

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

**Civil Writ Petition No.8535 of 2016 and
connected petitions.
Decided on : 21.09.2017**

Joginder Rathi

... Petitioner

Versus

Chaudhary Devi Lal Cooperative Sugar Mills Limited and another

... Respondents

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

Present : Mr. Harish Bhardwaj, Advocate for the petitioner
in CWP No.8535 of 2016.

Mr. R.K. Malik, Senior Advocate with
Mr. Bhupinder Malik, Advocate for the petitioners
in CWP Nos.8580 and 7675 of 2016.

Mr. Sunny Namdev, Advocate for
Mr. Saurabh Dalal, Advocate for the petitioner
in CWP No.24227 of 2016.

Mr. Harish Rathee, Sr. DAG, Haryana.

Ms. Neelam Nehra, Advocate for
Mr. Deepak Balyan, Advocate for respondent-Sugar Mill.

G.S. Sandhawal, J. (Oral)

The present order shall dispose of four writ petitions i.e. **CWP Nos.8535, 7675, 8580 and 24227 of 2016** as common question of law and facts are involved. The facts are being taken from **CWP No.8535 of 2016 'Joginder Rathi Vs. Chaudhary Devi Lal Cooperative Sugar Mills Limited and another'**.

The 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 previous post of Oil Man Seasonal Permanent from the post of Fitter-III (Electric). The reasoning given in the said order is as under:-

“It is written with regard to the subject cited that vide aforesaid letter No., you were issued Show Cause Notice. Your reply is not satisfactory. So you are reverted back to your previous post (Oil Man Seasonal Permanent).

From the perusal of the above, it would be clear that a show cause notice was issued to the petitioner and he had also duly given his reply on 14.09.2015 in which it was mentioned that he had the necessary qualification and accordingly his name had been recommended, which has now been appended as Annexure P-9. In the impugned order no reference of the reply has been made to by the respondents.

Counsel for the petitioner submits that in similar circumstances, this Court in **CWP No.13824 of 2016 'Bijender Vs. Chaudhary Devi Lal Cooperative Sugar Mills Ltd. and another'** decided on 11.07.2017 set aside the order on the ground that the order was non-speaking and without containing reasons. Vide order dated 11.07.2017, it was held as under:-

“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 'rubberstamp 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 Harvard 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.”

Resultantly, the present writ petitions are also disposed of in the same terms and with the liberty to the respondents to pass a fresh order in accordance with law.

SEPTEMBER 21, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No