

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16281 of 2015

Date of Decision: 20.09.2018

Bijender Singh

... Petitioner

Versus

State of Haryana and another

... Respondents

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

Present: Mr. Sandeep Parkash Chahar, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. Affidavit filed in Court is taken on record.
2. Sh. Joginder Singh, General Manager, Haryana Roadways, Sonipat is present in Court. His predecessor passed the impugned order. He is unable to make much of it. The impugned order dated May 25, 2015 creates even more confusion than the earlier order dated May 12, 2011 which was quashed by this Court with a direction to the General Manager, Haryana Roadways, Sonipat to pass a fresh order strictly in terms of the eligibility conditions of ACP rules of 1998 and 2008.
3. It will be well to remind the officers who passed the orders that an administrative order deciding the rights of parties are quasi judicial determinations and therefore must disclose reasons which weighed in the mind of the authority in making a decision. This is because gaps cannot be filled in an administrative order by an oral argument or an affidavit explaining what was meant by the order. The order is seriously defective.

Alas, even in the making of the fresh order, the petitioner was not heard on his claim. This compounds the error twice over since at both the stages the petitioner was not heard. This defeats his rights to a reasoned order and unfortunately has postponed settlement of the dispute for over 7 or 8 years. I can only say that the General Manager, Haryana Roadways, Sonipat has acted in a very casual manner in passing the impugned order which actually borders on contempt of the directions of this Court in CWP No.20562 of 2011.

4. For the fundamental flaws apparent on the face of the order and abject lack of reasoning therein, the impugned order is not legally sustainable and is quashed. The petition is partially allowed without expressing any opinion on the merits of the case. A direction is issued to the respondent General Manager, Haryana Roadways, Sonipat to pass a fresh order within two months from date of supply of certified copy of the order strictly in accordance with the rules after offering an effective opportunity to the petitioner to present his case, for which the petitioner may file a comprehensive representation or get this petition treated as a representation.

5. The Court is informed on instructions received in court by the State counsel that Virender Singh Lather passed the order in 2011 while Jai Pal Rana passed the order in 2015. The latter has retired from service.

6. Since the petitioner has been put to litigation expenses twice over by palpably bad orders, he deserves to be compensated by award of costs and damages which is assessed at ₹50,000/- to be paid by the State to the petitioner with liberty to the State to recover it from the officers who passed those illegal orders but after affording them an opportunity of hearing to

explain themselves.

7. A copy of this order be sent to the Chief Secretary, Haryana for any action he may propose or deem fit.

20.09.2018
manju

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>