

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

**CWP NO. 27300 OF 2016
DATE OF DECISION : 07.05.2019**

Sukhminder Singh Bhattal

...Petitioner

versus

Punjab State Power Corporation Limited and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Animesh Sharma, Advocate,
for the petitioner.

Mr. Mukul Aggarwal, Advocate,
for the respondents.

ARUN MONGA, J. (ORAL)

1. Prayer, *inter-alia*, herein is for quashing of punishment order dated 02.07.2013 (Annexure P-8) whereby major penalty of stoppage of two annual increments with cumulative effect has been awarded to the petitioner and upheld by the Appellate Authority vide order dated 03.11.2016 (Annexure P-11).

2. Learned counsel for the petitioner submits that it is a settled position of law, as held by Supreme Court of India and this Court in catena of judgments, that if an order is cryptic and non-speaking, the same is liable to be set-aside on that short ground without dwelling deeper into the matter.

3. Learned counsel for the petitioner has drawn my attention to the concluding para of the order passed by the punishing authority, wherein the only reason assigned is as below :

"after considering the allegations levelled in the charge-sheet, reply of the Officer, inquiry report of the Chief Engineer/Hidel, PSPCL Patiala, rebuttal submitted by the officer and other facts of the case, the competent officer ordered stoppage of two annual increments of Eng. Sukhminder Singh Bhathal, Senior Executive Engineer (Code No.104491), with future effect."

Other than above, no reason has been assigned as to what transpired in the mind of competent officer while awarding the punishment impugned herein. The order is as cryptic and non-speaking, as it can be. There seems to be complete lack of material on record to show application of mind as no reason, whatsoever, has been assigned by the punishing authority.

4. The position is much worse when the appellate order is seen. Particularly, in view of the fact that the appellate authority had invited comments of Deputy Engineer and Chief Engineer on the appeal filed by the petitioner and vide Annexure P-10, the following comments by them were furnished :

" Keeping in view the above, it is submitted that if in such kind of constructions works, any charge sheet will be issued against such officer, for committing negligence or irregularity, then in future no officer, will do any construction work of the board as per the instructions after the prior approval."

5. Notwithstanding, the recommendations, *ibid*, the appellate authority upheld the order passed by the punishing authority, vide order dated 03.11.2016 (Annexure P-11) without assigning any reasons other than stating that appellate order was being issued with approval of Whole Time Directors of the respondent-Corporation as a

resolution was passed in its meeting held on 29.09.2016 to uphold the order passed by the punishing authority.

6. I have gone through the record of the case and heard learned counsel for the parties.

7. Without assigning any reasons, the punishing authority passed the impugned penal order against the petitioner. It does not show as to what were the contentions raised by the petitioner and how and why they were found untenable by the concerned authority. The order is thus very cryptic and totally non-speaking. In somewhat similar circumstances, M.M. Punchi, J. (as His Lordship then was) of this Court in his judgment titled as "**Dr. P.K. Mittal v. State of Punjab and others**" reported as **1982(3) SLR 222** observed/held below :

*"2. The only contention raised by Mr. J.L. Gupta, learned counsel for the petitioner, in support of the petition is that order Annexure P-16 is not a speaking order and that no reasons have been assigned as to why the reply of the petitioner has been rejected. According to him, the order is cryptic and sketchy and could well have been passed without the application of any mind. Reliance is placed by him on **Ram Dass Chaudhary v. State of Punjab and another, 1968 SLR 792**, wherein P.C. Jain, J. in somewhat similar circumstances, relying on the decision of the Supreme Court in **Bhagat Raja v. Union of India and others, AIR 1967 SC 1606**, took the view that it was incumbent on a punishing authority to give reasons while arriving at a decision against a delinquent officer as the power of punishing was quasi judicial in nature. The case before P.C. Jain, J. arose from an appellate order of the Government, but here the impugned order is on the original side. In **State of Punjab v. Dr. R.K. Chopra, 1978 (1) ILR 1**, a Division Bench of this Court approved*

P.C. Jain, J.'s view in Ram Dass Chaudhary's case (supra). To my mind, the dictum of Bhagat Raja's case (supra) applies reinforcedly to an order passed by a punishing authority on the original side. It goes without saying that such an order may be subjected to appeal or revision or he tested in writ jurisdiction of this Court. Ex facie, something has to be available on the face of the order from which the Court of correction has to go by. In the instant case, as is plain, the order was that the reply of the petitioner had to be considered by the Government and found to be unsatisfactory and, therefore, one increment was thereby stopped with cumulative effect. That perse, to my mind, does not reveal as to how the mind of the Government was applied towards arriving at such a conclusion. Such an order cannot be sustained merely because in the return filed by the Government, effort has been made to justify that it is a speaking order, and it indicates the reasons because of which action was being taken against the petitioner. That may be true, that it indicates the reasons because of which action was being taken against the petitioner. But it does not indicate the reasons for coming to the conclusion for punishing the petitioner. The arena for the respective two spheres is well marked. And though permitted to over-shadow to some extent, cannot have the effect of superimposition to wipe out the ultimate aspect altogether".

8. Position is thus clear that an order awarding punishment passed by punishing authority should speak for itself. If it is non-speaking or cryptic then it will not stand judicial scrutiny.

9. In view of the facts and circumstances and the legal position as brought out above, there is no escape from holding that the impugned order dated 02.07.2013 (Annexure P-8) as well as the appellate order dated 03.11.2016 (Annexure P-11), are non-speaking

and cryptic. The same are, therefore, set-aside. The writ petition is allowed. The respondents are directed to accept the recommendations of the Deputy Engineer and Chief Engineer and to grant all consequential benefits to the petitioner in view of the impugned order having been quashed.

10. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

MAY 07, 2019
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Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No