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

CWP-16344-2019 (O/M)

Date of decision : 02.08.2023

Gurwinder Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Labh Singh Sandhu, Advocate
for the petitioners.

Mr. Vipin Pal Yadav, Additional A.G. Punjab.

Ms. Kusum Raj, Advocate for
Mr. A.D.S. Jattana, Advocate
for respondents No. 6 and 7.

HARSH BUNGER, J.

1. Petitioners have filed this writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari for setting aside the order/letter bearing No. 18/12/2019-4K/26 dated 20.05.2019 (Annexure P-1), passed by the Punjab Government, Labour Department (Labour Branch), vide which applications under Section 33-C(2) of the Industrial Tribunal Act, 1947 (in short 'the Act of 1947'), filed by the petitioners, have been transferred from Industrial Tribunal, Mohali to Industrial Tribunal, Ludhiana.

2. Briefly, the petitioners claim that they are working with respondents No. 4 to 7 and all the petitioners have filed their respective applications under Section 33-C(2) of the Act of 1947 regarding payment of arrears of differences of minimum wages, earned leave and refund of security

amount. It is submitted that earlier petitioners had filed said applications before the Industrial Tribunal, Patiala, however, in view of the objections taken by respondents No. 4 to 7 regarding jurisdiction of the said Court, the petitioners have withdrawn their respective applications from Industrial Tribunal, Patiala, with liberty to file fresh application before the Government Industrial Tribunal, Mohali, which was accordingly done by them.

3. Learned counsel for the petitioner submits that while the said matters were pending before the concerned authority, respondent-Management is alleged to have used their influence and got the matters (19 cases) transferred to Industrial Tribunal, Ludhiana, vide order/letter No. 18/12/2019-4K/26 dated 20.05.2019 (Annexure P-1), issued by Punjab Government, Labour Department (Labour Branch), for which no reasons have been assigned and neither any opportunity of hearing has been afforded to the petitioners. It is submitted that the petitioners had also represented to the concerned authority, however, of no avail. Accordingly, it is prayed that the impugned order/letter dated 20.05.2019 (Annexure P-1) be quashed.

4. Per contra, learned State counsel has opposed the prayer of the petitioners by submitting that there is no infirmity in the orders of transfer of cases from one Tribunal to another by the competent authority of the State. It is submitted that the representation of the petitioners was also considered and even personal hearing was afforded to the petitioners as well and finding no merit in their representation, the same was not allowed by the competent authority and the applications under Section 33-C(2) of the Act of 1947 were transferred, vide order/letter dated 20.05.2019, passed by the Punjab

Government, Labour Department (Labour Branch) from Industrial Tribunal, Mohali to Industrial Tribunal, Ludhiana. It is submitted that there is no merit in the instant petition and accordingly prayer for dismissal of the same has been made.

5. I have heard the learned counsel for the parties and have also perused the paper book.

6. Here it would be appropriate to refer to the provisions of Section 33-B of the Act of 1947 which relates to the power to transfer certain proceedings which reads as under :-

*“Section 33-B Power to transfer certain proceedings.
(1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceedings under this Act pending before a Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, as the case may be, for the disposal of proceeding and the Labour Court, Tribunal or National Tribunal to which the proceedings is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred.”*

7. A perusal of the said provision would manifest that the appropriate Government may, by order in writing and for reason to be stated therein, withdraw any proceedings under this Act of 1947, pending before the Labour Court, Tribunal or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceedings. However, the order for transfer of such proceedings is required to be issued in writing and for reasons to be recorded

therein.

8. The extract of the impugned order/letter dated 20.05.2019 (Annexure P-1) reads as under :-

“ *Punjab Government
Labour Department
(Labour Branch)*

To

*Labour Commissioner
Punjab
Memo No. 18/12/2019-4K/26
Dated Chandigarh 20/05/2019*

Subject :- Regarding transfer of cases of M/s Providers Management Informatics Private Limited from Industrial Tribunal, Mohali.

In the reference of above said subject.
2. Following cases are being approved for the transfer from Industrial Tribunal, Mohali to Industrial Tribunal, Ludhiana :-

<i>S. No.</i>	<i>Case No.</i>	<i>Name of applicant</i>	<i>Father's name of applicant</i>	<i>Type of case</i>
<i>1</i>	<i>A711/2018</i>	<i>Arjun Kumar</i>	<i>Sudagar Singh</i>	<i>Applicant</i>
<i>2</i>	<i>A713/2018</i>	<i>Abhinash Sharma</i>	<i>Hans Raj</i>	<i>Applicant</i>
<i>3</i>	<i>A714/2018</i>	<i>Naresh Kumar</i>	<i>Krishan Kumar</i>	<i>Applicant</i>
<i>4</i>	<i>A715/2018</i>	<i>Paramjit Singh</i>	<i>Sukhdev Singh</i>	<i>Applicant</i>
<i>5</i>	<i>A716/2018</i>	<i>Vivek Thakur</i>	<i>Surjit Singh</i>	<i>Applicant</i>
<i>6</i>	<i>A717/2018</i>	<i>Shishpal Singh</i>	<i>Raghubir Singh</i>	<i>Applicant</i>
<i>7</i>	<i>A718/2018</i>	<i>Ankush Mahajan</i>	<i>Jatinder Singh</i>	<i>Applicant</i>
<i>8</i>	<i>A750/2018</i>	<i>Gurcharan Singh</i>	<i>Dev Singh</i>	<i>Applicant</i>
<i>9</i>	<i>A751/2018</i>	<i>Gurvinder Singh</i>	<i>Gurdev Singh</i>	<i>Applicant</i>
<i>10</i>	<i>A752/2018</i>	<i>Gurbinder Singh</i>	<i>Santokh Singh</i>	<i>Applicant</i>
<i>11</i>	<i>A753/2018</i>	<i>Sukhjinder Singh</i>	<i>Karnail Singh</i>	<i>Applicant</i>
<i>12</i>	<i>A754/2018</i>	<i>Jaspal Singh</i>	<i>Charanjit Singh</i>	<i>Applicant</i>
<i>13</i>	<i>A755/2018</i>	<i>Gurjant Singh</i>	<i>Kala Singh</i>	<i>Applicant</i>

14	A756/2018	Gurmej Singh	Maan Singh	Applicant
15	840/2018	Gurdeep Singh	Harbhag Singh	Applicant
16	866/2018	Baljinder Singh	Balwant Singh	Applicant
17	889/2018	Bikram Singh	Mahinder Singh	Applicant
18	115/19	Ranjit Singh	Surat Singh	Applicant
19	116/19	Gurvinder Singh	Kartar Singh	Applicant

Sd/- Superintendent

Memo No. 18/12/2019-4K/ Dated, Chandigarh

Copy of above said is being sent to following for information and necessary actions :-

- 1. Presiding Officer, Industrial Tribunal, Mohali, in reference of their letter no. 694 dated 11.4.2019.*
- 2. Presiding Officer, Industrial Tribunal, Ludhiana.”*

9. A perusal of the above extracted order/letter dated 20.05.2019 (Annexure P-1) would reveal that no reasoning is forthcoming as to what has weighed in the mind of the authority and on what ground the said cases have been transferred from Industrial Tribunal, Mohali to Industrial Tribunal, Ludhiana. It is well settled that every order passed by a public authority should be reasoned order. It is also well settled that reasons are the heart and soul of an order. Hon'ble the Supreme Court in the case of *Commissioner of Police, Bombay Versus Gordhandas Bhanji*, reported as 1952 AIR (Supreme Court) 16, has observed as under :-

“9. We are clear that public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom

they are addressed and must be construed objectively with reference to the language used in the order itself.”

10. Further, Hon'ble the Supreme Court in the case of *M/s Steel Authority of India Ltd. Versus Sales Tax Officer, Rourkela-1 Circle and others*, reported as 2009 (Sup) AIR (Supreme Court) 561 has observed as under :-

“10. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same it becomes lifeless. (See Raj Kishore Jha v. State of Bihar 2003 (11) SCC 519).

11. Even in respect of administrative orders Lord Denning, M.R. in Bree v. Amalgamated Engg. Union (1971) 1 All ER 1148, observed: “The giving of reasons is one of the fundamentals of good administration.” In Alexander Machinery (Dudley) Ltd. v. Crabtree 1974 ICR 120 (NIRC) it was observed: “Failure to give reasons amounts to denial of justice.” “Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.” Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the “inscrutable face of the sphinx”, it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking-out. The

“inscrutable face of the sphinx” is ordinarily incongruous with a judicial or quasi-judicial performance.”

11. Keeping in view the above discussion, I am of the considered view that the order/letter dated 20.05.2019 (Annexure P-1) is not only sketchy but also non-speaking as it does not reflect any reasoning as to why the cases pending before the Industrial Tribunal, Mohali have been transferred to Industrial Tribunal, Ludhiana. Therefore, the impugned order/letter dated 20.05.2019 (Annexure P-1) is unsustainable in the eye of law and the same is accordingly quashed. However, the matter is remitted to the State Government through the Labour Department (Punjab Government) to take a fresh decision (if any) regarding transfer of cases (as mentioned in Annexure P-1) from Industrial Tribunal, Mohali to Industrial Tribunal, Ludhiana, by passing a well reasoned and speaking order after affording due opportunity of hearing to all concerned parties. The aforesaid exercise be completed preferably within a period of six weeks from the date of receipt of certified copy of the order.

12. The writ petition is accordingly disposed of.

13. All pending applications (if any) shall stand closed.

(HARSH BUNGER)
JUDGE

02.08.2023
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No