

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(213)

CWP-14330-2017 (O&M)

Date of Decision : September 05, 2023

Ishwar Singh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Deepak Sonak, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-13795-CWP-2018

As prayed for, the application is allowed.

Annexures P-13 and P-14 are taken on record.

CWP-14330-2017

1. Present writ petition has been filed challenging the order dated 11.09.2014 (Annexure P-3) by which, the petitioner has been imposed a punishment of stoppage of three increments with cumulative effect.
2. Further challenge is to the order passed in the appeal dated 20.01.2017, a copy of which has been appended with this petition as Annexure P-9.
3. Learned counsel for the petitioner argues that keeping in view the settled principle of law, once an appeal has been preferred raising due objections to the order imposing punishment, the Appellate Authority is under an obligation to decide all the said objections by passing a detailed order whereas, in the present case, the appeal preferred by the petitioner has

been dismissed by passing a totally cryptic order without mentioning the detailed reasons for arriving at the conclusion.

4. Learned counsel for the respondents submits that once a detailed order of punishment has been passed and the Appellate Authority has considered the said aspect in the appeal and has passed an order, hence, the grievance being raised by the petitioner is not correct.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It is a settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.1621 of 1986 titled as Ram Chander vs. Union of India and others, decided on 02.05.1986***, that the order passed by an Appellate Authority in an appeal should be a detailed reasoned order so as to record as to why the objections raised by the appellant concerned qua the punishment imposed cannot be accepted so as to have transparency. The administrative order has to be reasoned one so that the appellant concerned should know the reasons which weighed with the mind of the Appellate Authority while passing the order on appeal preferred. The relevant paragraphs of the said judgment are as under:-

*“8. So also in **Tara Chand Khatri v. Municipal Corporation of Delhi and Ors. (1977) 2 S.C.R. 198** this Court observed that there was a vital difference between an order of reversal by the appellate authority and an order of affirmance and the omission to give reasons for the decision may not by itself be a sufficient ground for passing such order, relying on the test laid down by Subba Rao, J. In **Madhya Pradesh Industries Ltd. v. Union of India (1966) 1 S.C.R. 466.***

“Ordinarily, the appellate or revisional authority shall give its own reasons succinctly; but in a case of affirmance where the original tribunal gives adequate reasons, the Appellate Tribunal may dismiss the appeal or the revision, as

the case may be, agreeing with those reasons.”

9. These authorities proceed upon the principle that in the absence of a requirement in the statute or the rules, there is no duty case on an appellate authority to give reasons where the order is one of affirmance. Here, rule 22 (2) of the Railway Servants Rules in express terms requires the Railway Board to record its findings on the three aspects stated therein. Similar are the requirements under rule 27 (2) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. Rule 22 (2) provides that in the case of an appeal against an order imposing any of the penalties specified in R.6 or enhancing any penalty imposed under the said rule, the appellate authority shall ‘consider’ as to the matters indicated therein. The word ‘consider’ has different shades of meaning and must in r.22 (2), in the context in which it appears, mean an objective consideration by the Railway Board after due application of mind which implies the giving of reasons for its decision.”

7. In the present case, a cryptic one line order has been passed which shows that the appeal has been considered and rejected. This kind of an order cannot be allowed to be sustained in view of the settled principle of law noticed hereinbefore.

8. Keeping in view above, the order dated 20.01.2017 (Annexure P-9) is set aside. The Appellate Authority is directed to pass a fresh order in accordance with law. Let the fresh order be passed within a period of eight weeks of the receipt of certified copy of this order.

9. The present writ petition is allowed in above terms.

September 05, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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