

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

CWP-25296-2012 (O&M)

Date of decision: 12.01.2023

Dr. Madan Gopal

....Petitioner

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jagdeep Singh Chahal, Advocate for
Mr. Jatin Salwan, Advocate for the petitioner

Mr. Charanpreet Singh, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

The petitioner's service appeal has been dismissed by the appellate authority on 21.05.2012. It may be noted here that previously a similar order passed by the appellate authority on 05.12.2011 was quashed with the following directions:-

“4. Consequently, the writ petition is allowed in part and the impugned order dated 5-12-2011 (Annexure P-8) is quashed with a direction to the Appellate Authority to decide the petitioner's appeal afresh by passing a speaking order within a period of six months from the date of receipt of a certified copy of this order. The petitioner shall be at liberty to supplement the grounds of appeal within one month from today which shall also be considered by the Appellate Authority. Ordered accordingly. Dasti.”

Despite the directions from the Court, it is evident that the appellate authority's order in the second round is also bereft of reasons.

The operative part of the impugned order reads as under:-

“In pursuance to the above mentioned

orders of the Hon'ble Court Dr. Madan Gopal Service no.3249 was given personal hearing on 19.04.2012 in pursuance to his appeal dated 24.02.2012 regarding the order of his dismissal from the service. While admitting his absence and the factum of not appear in the inquiry by the inquiry officer regarding the order of dismissal he had leveled allegations against the than Director Dr.H.S.Aneja.

Because the Government had inflicted the punishment of dismissal on the doctor after following the proper procedure therefore, there is not substance in his appeal and Dr. Madan Gopal has failed to establish his innocence during the personal hearing dated 19.4.2012. Therefore, the appeal preferred by the said doctor is being filed."

Learned counsel representing the respondents has failed to draw the attention of the Court to the reasoned order, as directed by this Court. While deciding the service appeals, the appellate authority is expected to record reasons, even if in brief, while critically analysing the submission of the parties. This is the minimum requirement of passing an order by the appellate authority. The services of the petitioner have been dispensed with on account of his alleged absence from his place of posting. On reading of the grounds of appeal, it is evident that the petitioner has made attempts to justify his absence. The appellate authority was required to examine the same and such critical appraisal was required to be reflected in the order.

For the aforesaid reasons, the writ petition is partly allowed and the impugned order dated 21.05.2012 is set aside, with a direction to the appellate authority to decide the petitioner's appeal afresh, by passing a speaking order containing reasons within a period of three months, from today. The petitioner through his counsel is directed

to appear before the appellate authority on 10.02.2023.

All the pending miscellaneous applications, if any, are also disposed of.

12.01.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE