

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

[116-2]**CWP-16246-2023****Date of Decision: 04.08.2023****Anil Kumar****...Petitioner**

Versus

Union of India and Others**...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Nikhil Anand, Advocate for the petitioner

Mr. Ashish Rawal, Advocate for the
respondents-Union of India.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant writ petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 06.01.2023 (Annexure P-6) whereby representation of the petitioner against below benchmark grading and poor pen picture has been declined by respondent No.3.

2. The petitioner joined Border Security Force (BSF) as 'Assistant Commandant' on 18.01.2010 and in the year 2022, he was posted at 136th Battalion, Border Security Force, Ferozepur, Punjab. The Annual Performance Assessment Reports (APARs) of the petitioner for the period 2017-18, 2018-19 & 2019-20 have been reported '*Very Good*' but the APARs of 2020-21 & 2021-22 have been downgraded. The

petitioner filed a representation dated 31.12.2021 (Annexure P-5) against adverse APARs for the period 2020-21 & 2021-22.

3. The respondent No.3 vide order dated 06.01.2023 had rejected the representation of the petitioner.

4. Mr. Nikhil Anand, learned counsel for the petitioner, *inter alia*, contends that impugned order has been passed contrary to the instructions dated 13.04.2010 issued by the Government of India whereby it has been specifically provided that competent authority shall decide the representation objectively in a quasi judicial manner. Respondent No.3 has passed the impugned order in a very mechanical manner. The authority has not considered the submissions of the petitioner. The impugned order is neither a speaking order nor there seems to be appreciation of submissions of the petitioner.

5. Mr. Ashish Rawal, learned counsel for the respondents expressed his inability to controvert the contention raised by learned counsel for the petitioner that the impugned order is a non-speaking order.

6. I have heard the arguments of both sides and with the able assistance of learned counsels perused the record.

7. From the perusal of the impugned order, it comes out that order has been passed by Additional DG BSF (WC) whereas communication has been made by DC/PPS. The petitioner has not been

communicated order passed by Additional DG BSF (WC) whereas the impugned order is the communication of DC/PPS. The order is totally non-speaking order and the respondent-authority has miserably failed to consider the grievance of the petitioner.

It is settled proposition of law that quasi judicial orders which are amenable to higher courts cannot be passed in a mechanical manner. The authorities are bound to pass speaking order. The authorities are further supposed to consider submissions of the aggrieved person. As the impugned order is a non-speaking order and there is no appreciation of submissions of the petitioner, thus, the impugned order dated 06.01.2023 passed by respondent No.3 deserves to be set aside and accordingly set aside.

8. The respondent-authority is directed to pass a fresh speaking order after granting an opportunity of hearing to the petitioner.

(JAGMOHAN BANSAL)
JUDGE

04.08.2023
Anjal

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