

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-29802-2018 (O&M)
Decided on : 05.12.2023

PARDEEP KUMAR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Rakesh Nagpal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance of the petitioner is that by a totally cryptic and non-speaking order, the petitioner was imposed punishment vide order dated 03.09.2016 copy of which has been appended as Annexure P-3 and by a cryptic order, the revision petition filed by the petitioner has been dismissed vide order dated 21.08.2018 (Anenxure P-7) which order cannot be sustained in the eyes of law.

Learned counsel for the petitioner argues that an authority passing an order especially imposing punishment upon an employee is required to be pass a detailed order as to what all evidence has come on record against an employee leading to the issuance of order of punishment. Similarly, when an appeal or a revision petition is being preferred by an employee against the said punishment order, the appellate authority is liable to look into the grievance raised so as to decide the same so that the employee should know as what weighed in the mind of the authority concerned either to exonerate or punish the employee concerned.

learned counsel for the petitioner submits that in the present petition, both the punishment order dated 03.09.2016 (Annexure P-3) and order passed in revision petition dated 21.08.2018 (Anenxure P-7) are totally cryptic and non-speaking order as no reason has come forward for imposing the punishment upon the petitioner and dismissing of the revision petition filed by the petitioner against the said punishment order.

Learned State counsel submits that once an enquiry has been held against an employee he knows that what evidence has come against him and hence, no detailed order is liable to be passed.

Learned counsel for the respondents submits that the order could have been a better worded but merely that the reasons are not mentioned will not render the order as arbitrary and illegal.

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

It is a settled principle of law as settled by the Hon'ble Supreme Court of India by passing an order in in Civil Appeal No.457 of 1970 titled as '**Mahabir Prasad Santosh Kumar v. State of U.P. and others**', decided on 02.04.1970 wherein it has been held that every order passed by the authority concerned needs to be reasoned and speaking order.

The relevant paragraph of said judgment of **Mahabir Prasad Santosh Kumar' case (Supra)** is as under :-

"5. *The case discloses a disturbing state of affairs. The authorities have disclosed by their conduct a reckless disregard of the rights of the appellants. The order passed by the District Magistrate cancelling the licences was quasi-judicial; it could be made only on a consideration of the charges and the explanation given by*

the appellants. That necessarily implied that the District Magistrate had to give some reasons why he held the charges proved, and the explanation unacceptable. When the matter was carried in appeal, the State Government could at least have acted with some awareness that citizens have rights which must be protected against possible arbitrary action by subordinate officials. The District Magistrate is not made the final authority in cancelling the licence. The appellants had a right to carry on their business, and as they held a licence to carry on their business they could be deprived of their right by an executive order supported by good and adequate reasons. The relevant rules granted a right of appeal to the State Government against that order, and that implied that the aggrieved party must have an opportunity to convince the State Government that the order passed by District Magistrate was erroneous. That right could be effectively exercised if reasons be recorded by the District Magistrate and supplied to the aggrieved party. If the aggrieved party is not supplied the reasons, the right to appeal is an empty formality.

6. *From the materials on the record it cannot be determined as to who considered the appeal addressed to the State Government, and what was considered by the authority exercising power on behalf of the State Government. The practice of the executive authority dismissing statutory appeals against orders which prima facie seriously*

prejudice the rights of the aggrieved party without giving reasons is a negation of the rule of law. This Court had occasion to protest against this practice in several decisions : See Madhya Pradesh Industries Ltd. v. Union of India, (1966)1 SCR 466 (per Subba Rao, J.); Bhagat Raja v. Union of India, (1967)3 SCR 302; State of Madhya Pradesh v. Narsinghdas Jankidas Mehta, C.A. No. 681 of 1966, decided on 29-4-1969(SC); State of Gujarat v. Patel Raghav Nath, C.A. No. 723 of 1966, decided on 21-4-1969 and Prag Das Umar Vaishya v. Union India, C.A. No. 657 of 1965, decided on 17-8-1967 (SC). The power of the District Magistrate was quasi-judicial : exercise of the power of the State Government was subject to the supervisory power of the High Court under Article 227 of the Constitution and of the appellate power of this Court under Article 136 of the Constitution. The High Court and this Court would be placed under a great disadvantage if no reasons are given, and the appeal is dismissed without recording and communicating any reasons".

In the present petition, challenge is to punishment passed, by the punishing authority which act is quasi judicial function, hence, the said order has to be a reasoned order giving the details as to why, the punishment is being imposed upon the employee concerned. The same reason goes for the revision order also that the revisional authority concerned needs to look into the grievance raised by the employee concerned against the order of punishment and pass a reasoned order so as to an employee concerned

should know as to what weighed in the mind of the authorities to arrive at a particular conclusion so that he/she can avail an appropriate remedy under the law.

Keeping in view the above, both the orders i.e. punishment order dated 03.09.2016 (Annexure P-3) and the order passed in revision petition dated 21.08.2018 (Anenxure P-7), which do not give any reason so that an employee concerned should know as to what weighed in the mind of the authorities to arrive at a particular conclusion and as cryptic in nature cannot be sustained in the eyes of law. Accordingly, both the orders i.e. punishment order dated 03.09.2016 (Annexure P-3) and order passed in revision petition dated 21.08.2018 (Anenxure P-7) are hereby set aside with a direction to the respondents to pass a fresh order in accordance with law.

The present petition allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

05.12.2023

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<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>