

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18576-2023

Date of decision: 13.09.2023

Sukhwinder Pal

.....*Petitioner*

V/s

Punjab State Civil Supplies Corporation Limited and others

...*Respondents*

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. V.K. Shukla, Advocate
for the petitioner.

DEEPAK MANCHANDA J. (ORAL)

The instant petition has been filed under Article 226 of the Constitution of India for the issuance of a writ in the nature of certiorari/mandamus quashing the impugned order dated 27.09.202/Endst. Dated 28.09.2022 (Annexure P-2) passed by respondent No.3 inflicting a punishment of recovery of Rs.56,45,654/- upon the petitioner and order Endst. Dated 21.07.2023 (Annexure P-5) passed by respondent No.2 rejecting the Departmental Appeal of the petitioner and the Inquiry Report dated 04.10.2018 (Annexure P-6) and with a further prayer for issuance of a writ of prohibition restraining the respondents from making/effecting recovery from the petitioner on the basis of impugned orders dated 27.09.2022/Endst. Dated 28.09.2022 (Annexure P-2) and order Endst. Dated 21.07.2023 (Annexure P-5) during the pendency of the present writ petition.

The brief facts emanated from the petition are that the petitioner is working as Inspector Grade-2 with Punjab State Civil Supplies Corporation

Limited (hereinafter referred to as PUNSUP) and presently posted at PUNSUP Centre, Baghapurana, District Moga and was served with a charge-sheet dated 21.12.2017 (Annexure P-1) under Rule 8 of the Punjab Civil Services (P&A) Rules, 1970 alleging some omissions/commissions on the part of the petitioner while discharging his duties. After issuance of the aforesaid charge-sheet, the petitioner filed his detailed reply dated 13.02.2018 to the said charge-sheet along with some supporting documents. The said reply to the charge-sheet was not considered by the Punishing Authority i.e., respondent No.3 and a regular inquiry was conducted by Sh. Amarjit Singh Katari, Addl. District and Sessions Judge, (retd.) with regard to the charges contained in the charge-sheet. Subsequently, the order dated 27.09.2022, Endst dated 28.09.2022 (Annexure P-2) was passed by the respondent No.2, inflicting a punishment of recovery of Rs.56,45,654/- upon the petitioner under Rule 5 of the Punishment and Appeal Rules, 1970. The petitioner preferred departmental appeal dated 19.10.2022 (Annexure P-3) against the aforesaid Punishment Order under Rule 15 of the (P&A) Rules, 1970 before respondent No.2 i.e., the Appellate Authority. The aforesaid appeal of the petitioner has been rejected by the Appellate Authority vide its order dated 21.07.2023 (Annexure P-5).

Learned counsel further contends that while passing the impugned order dated 21.07.2023 (Annexure P-5) by the Appellate Authority that while deciding the departmental appeal dated 19.10.2022 the number of grounds were taken to challenge the punishment order (Annexure P-2) passed by the Punishing Authority, but the Appellate Authority did not appreciate the grounds taken in the appeal and passed the impugned order dated 21.07.2023 rejecting the appeal of the petitioner and confirming the punishment awarded by the Punishing Authority

his departmental appeal and there is total non-application of mind, whereas, the petitioner in his departmental appeal elaborately rebutted the allegations of the respondents whereby, he was imposed punishment of recovery, but none of the grounds taken in the appeal were taken into account while passing the impugned order dated 21.07.2023.

Notice of motion.

Mr. Manbir Singh Batth, Advocate has put in appearance on behalf of the respondents by filing his *memo of appearance*, and accepts notice on their behalf.

I have heard learned counsel for the parties at length and gone through the record of the case.

After perusing the material on record including the grounds of appeal as well as the impugned order dated 21.07.2023, the Appellate Authority dismissed the appeal without indicating any reasons which prevailed with it for rejecting the points raised in the appeal. This Court has perused the appeal as well as the appellate order and is of the view that appellate order is non-speaking and indicates that a clear non-application of mind to the issues raised by the petitioner, which should have been dealt with while passing the impugned order dated 21.07.2023. It really surprises that in a statutory appeal in which questions, both on fact and law were debatable and, wherein number of grounds were spelled out in the appeal, totally a non-speaking order, bereft of any reasoning came to be passed by the Appellate Authority.

It is the settled proposition of law that even quasi-judicial orders have to contain reasons for reaching at the conclusion. Order 21.07.2023 (Annexure P-5) thus, lacks the very essentials of judicial or quasi-judicial orders for want of reasons and the same deserves to be set aside.

The impugned order dated 21.07.2023 has been passed without taking into consideration the objections raised by the petitioner. Since no reason has been given while rejecting the appeal, the impugned order is passed in violation of principles of natural justice and is not sustainable.

The impugned order dated 21.07.2023 (Annexure P-5) is quashed. The present case is remanded back to the Appellate Authority i.e., respondent No.2-Appellate Committee through its Chairman, Punjab State Civil Supplies Corporation Limited to decide the appeal afresh. It is needless to say that the petitioner shall be heard in person. He is permitted to state his case. The appeal shall be decided expeditiously and till then no further recovery shall be effected from the petitioner till decision of the appeal.

Accordingly, the present petition is allowed.

13.09.2023
Sapna

(DEEPAK MANCHANDA)
JUDGE

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