

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

109

CWP-19402-2023

Date of Decision : 02.09.2023

Raj 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. Karan Kumar Jund, Central Govt. Counsel for
Mr. Sunil K. Sharma, Sr. Panel Counsel
for the respondents-UOI.

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 07.03.2023 (Annexure P-4) whereby representation of the petitioner against below benchmark grading and poor pen picture in APR of 2019-20 & 2020-21 has been declined by respondent No.5.

2. The petitioner joined Sashastra Seema Bal (SSB) on 27.11.2001 and in the year 2018, he was deputed to Bureau of Civil Aviation Security. The Annual Performance Assessment Report (APAR) of the petitioner for the period 2018-19 was reported 'outstanding' but the APARs of 2019-20 and 2020-21 have been downgraded. The petitioner filed a representation dated 09.11.2022 (Annexure P-2) against adverse APARs for the period 2019-20 and 2020-21.

3. The respondent No.5 vide order dated 07.03.2023 had rejected 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.5 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. K.K.Jund, 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 Deputy Director (Pers). 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 a 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 07.03.2023

passed by respondent No.5 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.

02.09.2023
anju

(JAGMOHAN BANSAL)
JUDGE

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