

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

256

CWP-3395-2022 (O&M)
Date of decision: 01.03.2024

Surinder Kumar and Others

....Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kapil Kakkar, Advocate for the petitioners

Mr. A.S. Bains, AAG Punjab

AMAN CHAUDHARY. J.

1. The prayer of the petitioners is for fixation of the seniority in accordance with Rule 11 of Punjab State Education Class-III (School Cadre) Service Rules, 1978 on basis of merit determined by Selection Board in terms of the law laid down by this Court in the case of **Charan Dass Sharma vs. State of Punjab and Others** in CWP-19832-2003, decided on 09.07.2004, Annexure P-11, however, the respondents have rejected the claim by passing a one liner, non-speaking order by the Appellate Authority on 26.11.2020, despite the fact that in the information received under the Right to Information Act on 25.01.2017, Annexure P-5, marks of the last selected candidate in the female category were 47.77 marks and 47.65 in the male, while the petitioners were admittedly way higher in merit. He prays for setting aside the order and directing respondents to reconsider and pass a speaking order, after granting an opportunity for hearing.

2. Learned State counsel is unable to support the impugned order. However, prays that in the eventuality of setting aside the same, liberty be granted to the respondents to pass afresh, after affording an opportunity of hearing to the petitioner.

3. Heard learned counsel on the either side.

4. It is worthwhile to refer to the judgment passed , in **Mahabir Prasad Santosh Kumar vs. State of U.P.**, (1970) 1 SCC 764, wherein Hon'ble the Supreme Court had observed that, recording of reasons in support of a decision by a quasi-judicial authority is obligatory, as it ensures that the decision is reached in accordance to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency. It is necessary that orders passed by the competent authorities, who have been specified as appellate authorities should have the attributes of a judicial order.

5. A perusal of the order reveals that it does not contain the reasons on the basis whereof the decision has been reached. The appeal being a substantive right, the Appellate Authority was required to deal with the grounds that were raised therein. It was thus imperative for it to be self-contained, speaking and reasoned. The non-application of mind is apparent in the impugned order dated 26.11.2020, thus it being laconic and cryptic, is hereby set aside.

6. The present petition is disposed of with a direction to the respondents to consider and decide the claim of the petitioners, leaving it to the Appellate Authority to pass an order afresh, by dealing with the pleas raised in the appeal and taking note of Annexure P-5, being information received under RTI dated

25.01.2017, indicating the merit position of the petitioners as also the judgment passed in **Charan Dass Sharma** (supra), within a period of six months, in accordance with law, after associating the petitioners therewith. The observations made herein would not be construed as an expression of opinion on the merits of the case.

(AMAN CHAUDHARY)
JUDGE

01.03.2024
M.Kamra

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