

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-4810-2024 (O&M)
Date of decision: 05.03.2024

Sheenam Kathpal

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Puneet K. Bansal, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab,

AMAN CHAUDHARY, J

1. The prayer in the present Civil Writ Petition filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of certiorari for quashing order dated 21.07.2022, Annexure P8, passed by respondent No.1 whereby petitioner was dismissed from service, as well as order dated 04.08.2023, Annexure P11.
2. Learned counsel would contend that the petitioner, who was working as Ayurvedic Medical Officer, had to urgently leave for the United Kingdom for the treatment of her husband, who was suffering from Mercury Poisoning. She accordingly applied for ex-India leave from 20.09.2021 to 04.10.2021, which has been admitted in the impugned order dated 21.07.2022, whereby her services were terminated, however, the same was neither approved nor rejected. Due to reasons beyond her control i.e. her own health condition, as depicted in the reply dated 04.06.2022, Annexure P7 filed by her along with other documents, she was unable to join duty, but these have not been taken into consideration, even in appeal, though the relevant documents were also attached with the application, appended

as Annexure P10, but it has been dismissed by passing a non-speaking order dated

04.08.2023, Annexure P11. He prays that the matter be reconsidered by the Appellate Authority in a time bound manner, taking into account the above facts.

3. Learned State counsel while being unable to controvert facts, still submits that the petitioner having been absent, led to passing of the impugned order, however, the respondents would not be averse to have a relook at the matter.

4. Heard learned counsel on either side.

5. A worthwhile reference can be made to the judgment passed by in **M/s Kranti Associates Pvt. Ltd. And Another vs. Sh. Masood Ahmed Khan and Others**, 2010(9) SCC 496, wherein Hon’ble the Supreme Court observed that the authorities are under a legal obligation to give reasons while passing an order, which are the essence and virtually a part of the due process. The face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the 'inscrutable face of a Sphinx'. The principles, as relevant to the present case, laid down therein read thus:

- “a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
- b. A quasi-judicial authority must record reasons in support of its conclusions.
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
- e. XX XX XX
- f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
- XX XX XX
- l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or ‘rubber-stamp reasons’ is not to be equated with a valid decision making process.
- XX XX XX”

6. 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 and thus, the impugned order dated 04.08.2023, Annexure P-11, being laconic and cryptic, is hereby set aside.

7. The present petition is disposed of with a direction to the respondents to consider and decide the claim of the petitioner, leaving it to the Appellate Authority to pass an order afresh, after affording a proper opportunity of hearing to her and taking note of the pleas raised in Annexure P-10, within a period of six months, in accordance with law.

05.03.2024

ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No