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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15298-2021 (O&M)

Date of Decision: 06.02.2024

Kashmir Singh Saini

....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashwani Talwar, Advocate, for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Dhruv Walia, Advocate, for respondents No.2 & 3.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of *certiorari* for quashing the order dated 05.04.2021 (Annexure P-26) whereby the revision petition preferred by the petitioner against the order dated 18.08.2020 (Annexure P-24) as well as the order of punishment dated 27.03.2019 (Annexure P-21) has been dismissed.

2. Learned counsel for the petitioner has *inter alia* submitted that the order of punishment which has been passed against the petitioner vide Annexure P-21 is totally erroneous and perverse order and against the law particularly in view of the fact that no opportunity was given to the petitioner at the time of enquiry which is clear from the enquiry report

(Annexure P-20) itself. He submitted that neither any witness was examined nor cross examined nor any evidence was produced on record but by one stroke of pen it was so stated by the Enquiry Officer that the charges are proved against the petitioner with regard to his absence. He further submitted that when the enquiry report was submitted to the Disciplinary Authority, then a copy of the enquiry report was not even supplied to the petitioner which caused prejudice to him. He submitted that after the punishment order was passed, he filed a statutory appeal before the Appellate Authority vide Annexure P-23 by taking up all the pleas which were available to him but not even a single plea was considered by the Appellate Authority and again by a totally cryptic, non-speaking and without recording any reasons, the appeal was dismissed vide Annexure P-24. Thereafter, he filed a statutory revision by filing an elaborate revision petition but again the Revisional Authority also passed an order Annexure P-26 whereby revision was dismissed again by passing a cryptic and non-speaking order. He submitted that both the appeal and the revision were statutory under the Statutory Rules and such an order could not have been passed without recording even a single reason and they had only reiterated the facts and therefore the impugned orders are therefore liable to be quashed.

3. Mr. Dhruv Walia, learned counsel appearing on behalf of respondent-Nigam has submitted that the orders Annexures P-24 and P-26 were passed after due consideration of the record and after hearing the petitioner and giving him due opportunity of hearing.

4. I have heard the learned counsel for the parties.

5. A perusal of orders Annexures P-24 and P-26 which are the orders passed by the Appellate Authority as well as the Revisional Authority

would show that in the orders only factual position has been mentioned and not even a single reason has been mentioned either by the Appellate Authority or by the Revisional Authority. Whenever an order is to be passed, then it has to be backed by some reason and in case any such order is passed which is not backed by reason, then the same is *non est* and cannot sustain in the eyes of law. Therefore, this Court is of the view that the aforesaid orders Annexures P-24 and P-26 passed by the Appellate Authority and the Revisional Authority are liable to be set aside with a direction to the Appellate Authority to consider all the pleas which have been taken by the petitioner in his appeal and after discussing the same, pass a speaking order by due application of mind.

6. Consequently, the present petition is allowed. The order dated 18.08.2020 (Annexure P-24) and order dated 05.04.2021 (Annexure P-26) passed by the Appellate Authority and the Revisional Authority respectively are hereby set aside. The case is remanded back to the Appellate Authority to consider the appeal of the petitioner in accordance with law and pass a fresh order after granting due opportunity to the petitioner and after recording reasons for the same. Needless to say that while passing fresh order by the Appellate Authority, he should not be influenced by the earlier order which has been passed by him vide Annexure P-24 and a fresh order shall be passed by fresh application of mind. The aforesaid order shall be passed within a period of four months from today.

06.02.2024

rakesh

(JASGURPREET SINGH PURI)

JUDGE

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