

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

108+236

CWP-17730-2019 (O&M)
Date of Decision:22.04.2024

Iqbal Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON’BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. R.K. Arora, Advocate for the petitioner.

Mr. Satnampreet Singh, DAG, Punjab.

AMAN CHAUDHARY J. (Oral)

CM-744-2024

For the reasons mentioned in the application, same is allowed and a copy of order dated 27.07.2018, Annexure P-13 is taken on record, subject to all just exceptions.

Main case

1. The prayer in the petition is for quashing the order dated 21.12.2018, whereby two punishments, i.e., compulsory retirement and 33% permanent cut in his pension, were awarded to the petitioner under Rule 5 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970; as also the non-speaking order rejecting his appeal, which has been passed by the same authority, who had punished him. Learned counsel submitted that similarly circumstanced employees namely, Harinder Kaur, Sukhdev Singh, Rajwant Kaur etc., facing like allegations,

were either awarded punishment of only compulsory retirement or stoppage of one increment with cumulative effect. He, at this stage, prays that the matter be reconsidered by the Appellate Authority in a time bound manner, taking into account the above facts.

2. Learned State counsel being unable to controvert the aforesaid facts, submits that the respondents would not be averse to have a relook at the matter.

3. Having heard learned counsel on either side, this Court finds that in sum and substance, the plea raised was that two punishments have been awarded to the petitioner, while the charge-sheet indicated that he was to be rendered any one of the major penalties. In addition thereto, the appeal against the said order was rejected by the same officer who had issued it, that too in a cryptic and laconic manner, being in teeth of the judgment of Hon'ble the Supreme Court in **M/s Kranti Associates Pvt. Ltd. And Another vs. Sh. Masood Ahmed Khan and Others**, 2010(9) SCC 496, wherein it was held that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak and must not be like the 'inscrutable face of a Sphinx. 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 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
1. 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”

4. A gainful reference can be made to the judgment in **Ram Chander vs. Union of India**, (1986) 3 SCC 103, wherein Hon’ble the Supreme Court while dealing with the appellate provisions under the Railway Servants (Discipline and Appeal) Rules, 1968 condemned the mechanical way of dismissal of appeal. It was held that the word "consider" occurring to the Rule 22(2), in the context in which it appears, must mean that the Railway Board shall duly apply its mind and give reasons for its decision. The duty to give reasons is an incident of the judicial process and emphasised that in discharging quasi-judicial functions the Appellate Authority in accordance with natural justice must give reasons for its decision.

5. Hon’ble the Supreme Court in **National Highways Authority of India and others vs. Madhukar Kumar and others**, (2022) 14 SCC 221, had held that the administrative authorities exercising judicial or quasi-judicial functions must record reasons for their decisions, as these help prevent arbitrariness and ensure fairness in decision-making processes.

6. On a conspectus evaluation of the afore-referred enunciations of law, it can be deduced that reasons are to be recorded by the authority in a judicial or quasi-judicial order, even if it is one of affirmation, to depict that the decision was reached in accordance to law and is not a result of caprice, whim or fancy, thereby minimizing the chances of arbitrariness. The vague nature of the order makes it discernible that there was a conspicuous deficiency in the consideration by the appellate authority regarding the punishments imposed, while reaching the

decision, which should otherwise have been self-contained, speaking and well-reasoned.

7. Even for this Court to have a holistic approach, it is much required that there is availability of a point of view of an authority higher than the one, the order of which was appealed against, which is missing in the case at hand.

8. Keeping in view the peculiar facts and circumstances of the case, the impugned order dated 25.04.2019 is set aside. The matter is remitted to the Appellate Authority, for rendering a decision on merits by an authority higher than the punishing one, in accordance with law, within a period of four months, after affording a proper opportunity of hearing to the petitioner.

9. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

April 22, 2024
Dinesh

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