

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-16544-2020

Date of Decision : 15.02.2024

Amardeep 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. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Prayer in the present writ petition is for quashing of charge-sheet dated 03.04.2018, enquiry report dated 09.07.2019, punishment order of dismissal dated 02.03.2020 and order dated 31.08.2020, whereby the appeal filed by the petitioner has been dismissed and also for directing respondents to grant approval of earned leave of petitioner and further reinstatement in service with all consequential benefits.

2. Learned counsel would submit that for an absence from duty for four months i.e. 21.04.2017 to 20.08.2017, disciplinary proceedings were conducted, but in the show cause notice the Disciplinary Authority already pre-decided the punishment as dismissal from service. Further still, though in the reply submitted various issues raised including furnishing of incomplete enquiry report without annexures etc. were not considered while passing the punishment order. Likewise, the appellate authority, which had initially not even decided the appeal and the petitioner had to file a writ petition, upon a direction issued therein, it was decided albeit no ground taken by the petitioner

in it, was dealt with while rejecting the same. The fact of petitioner having an unblemished service record of 14 years, was also not taken into consideration, thus, the punishment awarded is even disproportionate.

3. Learned State counsel submits that the petitioner having absented himself was rightly awarded the punishment of dismissal from service and the appeal filed against the same was found to be without merit and rejected, in accordance with law.

4. Heard the learned counsel on either side.

5. It is evident from the facts of the case that in the show cause notice issued alongwith serving upon the petitioner a copy of enquiry report, it had, as a matter of fact, been recorded that the punishment of dismissal is to be awarded, depicting a premeditated and closed mind. Thus, it being nothing but an empty ceremony, notwithstanding the reply submitted thereto, which can be safely said to be insignificant and akin to knocking one's head against the impenetrable wall of a prejudged opinion.

6. The impugned show cause notice cannot therefore in law be said to be proper, or standing the test of fairness, reasonableness and adherence to the principles of natural justice.

7. The principle that justice must not only be done but it must eminently appear to have been done would equally apply to these proceedings as well.

8. Considering the assailing of the order passed by the Appellate Authority on the ground of it also being non-speaking, it would be gainful to refer to the judgment 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.
- m to o XX XX XX”

9. Trite it is to say that disciplinary proceedings against employees conducted under the provisions of the relevant service rules are quasi-judicial in nature and as such, it is necessary that orders passed by the competent authorities, who have been specified as disciplinary/appellate/reviewing authorities should have the attributes of a judicial order. Hon’ble the Supreme Court, in **Mahabir Prasad Santosh Kumar vs. State of U.P.**, (1970) 1 SCC 764, 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.

10. 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 by the petitioner therein, while laying a challenge to the order of punishment. 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 31.08.2020, it being laconic and cryptic.

11. As a fall out, the impugned orders are liable to and hereby set aside, remanding the matter to the disciplinary authority to proceed from the stage from where the illegality occurred, that is of serving a show cause notice. However, till the finalization of the proceedings, the dispossession of the petitioner shall remain stayed. The observations made herein would not be construed as an expression of opinion on the merits of the case.

February 15, 2024
ps/hemant

(AMAN CHAUDHARY)
JUDGE

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