

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

223

CWP-1536-2017(O&M)
Date of decision: 15.02.2024

Seema Sandhu
....Petitioner

Versus

State of Punjab and Others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kshitij Sharma, Advocate for the petitioner
Mr. Charanpreet Singh, AAG Punjab
Mr. Sahil Soi, Advocate for respondent No.3

AMAN CHAUDHARY, J.

1. The prayer in the present petition is for the issuance of a writ in the nature of certiorari for quashing the investigation report dated 30.10.2012, orders dated 03.12.2014 and 04.07.2016, in view of the fact that the same is in violation of principles of natural justice.
2. Learned counsel would contend that the petitioner was dismissed from service vide order dated 03.12.2014, Annexure P-20, against which an appeal was preferred on 04.03.2015, Annexure P-21, taking a number of grounds. However, vide order dated 04.07.2016, Annexure P-22, the same has been rejected without dealing with any of those and assigning any reason.
3. Learned State counsel submits that the petitioner having absented himself was rightly awarded the punishment of termination of his services 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. 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.

6. 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, 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

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”

7. It is trite 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.

8. A reference to the impugned order dated 04.07.2016 passed by the Appellate Authority is apposite to be made and it reads thus:

“In the respect of the subject in the endorsed case this is informed that from Smt. Seema Sandhu, against orders of Government, dated 26.11.2014, in which she was given a punishment (Removal from service), has filed an appeal and after consideration at the level of competent authority, it is rejected.”

9. A bare 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 04.07.2016 and it being laconic and cryptic, is liable to be and hereby set aside.

10. In wake of the above, the present petition is disposed of, leaving it to the Appellate Authority to pass an order afresh, dealing with the pleas taken in the appeal, within a period of six months, in accordance with law, after associating the petitioner therewith. The observations made herein would not be construed as an expression of opinion on the merits of the case.

(AMAN CHAUDHARY)
JUDGE

15.02.2024
M.Kamra

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