

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CWP-20500-2016(O&M)
Date of decision: 27.02.2024

Surinder Pal Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. P.S. Khurana, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

1. Prayer in the writ petition is for quashing of order dated 28.07.2016 Annexure P-1, whereby punishment of stoppage of two increments without cumulative effect has been imposed, for allegedly seeking extension of Ex-India leave for 10 days beyond the sanctioned leave of 30 days.
2. Learned counsel would submit that the petitioner, who was working as Principal of Government Co-Education Senior Secondary School, had on 16.04.2015, sought Ex-India leave for 40 days from 06.07.2015 to 14.08.2015, through proper channel, which was not forwarded to the Principal Secretary of the Department of School Education, who was competent to grant it for upto two months, whereas the DPI on 12.06.2015, sanctioned only for one month, as per his authority. She immediately requested for grant of remaining leave, which, though, was forwarded to the Director, Education Department on 18.06.2015, but no decision was conveyed until after she had returned and joined duty on 15.08.2015. It was only vide order dated 20.10.2015, the extension from 06.07.2015 to 14.08.2015 was rejected. Thereafter, she submitted a request on 26.10.2015, for reconsideration and grant of ex-post facto sanction of Ex-India leave from

06.08.2015 to 15.08.2015, but instead, a charge sheet dated 03.03.2016 was issued, vide Annexure P-9, to which a detailed reply dated 21.03.2016, giving the entire background as above was submitted. Despite her request sent through registered post for grant of an opportunity of hearing as she could not attend on 11.05.2016, on account she being on station leave to visit Sri Patna Sahib (Bihar), Annexure P-12 (colly.), it was not granted and punishment was imposed, for no fault on her part.

3. Learned State counsel on the other hand, submits that the impugned order passed is legal and valid. The petitioner was given opportunity of hearing but did not avail of the same for reasons best known to her.

4. Heard learned counsel on either side.

5. As is axiomatic that the impugned order has been passed on the premise that the petitioner, in contravention of the condition, had requested for an extension of the leave. Be that as it may, the crux of the reply submitted by her to the charge sheet that the initial leave sought by her was for 40 days, which was not put before the Principal Secretary to the Department, who could sanction it for a period upto two months, but was instead granted by the Director Public Instructions for 30 days, as per his competence. On her follow up of it, the same was rejected after she had rejoined, on availing of the leave period. Thereafter, even her request to grant sanction of ex-post facto leave for 10 days, that remained short as per her application, was not acceded to. To the above, there apparently is not even a whisper in the order, let alone any consideration, which thus is liable to be set aside on the ground of non-application of mind, besides being in derogation of the established principles of natural justice and fairness.

6. The face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak and not be like

the 'inscrutable face of a Sphinx', as observed by 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.

7. On the anvil of the aforesaid, the impugned order is hereby set aside, leaving it to respondent-Department to have a relook at the matter by considering it in its entirety, in accordance with law, after affording the petitioner an opportunity of being heard. The observations made herein would not be construed as an expression of opinion on the merits of the case.

8. The present petition stands disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

27.02.2024
pry

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