

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

205

CWP-18692-2017

Date of Decision :20.01.2024

Satpal Singh

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. O.P. Goyal, Senior Advocate with
Mr. Yagank Goyal, Advocate for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to the various orders passed by the respondents including the order dated 15.09.2016 (Annexure P-11) imposing punishment of dismissal from service upon the petitioner as well as order dated 30.05.2017 (Annexure P/15) rejecting his appeal against the said order of dismissal.

2. Learned Senior counsel appearing for the petitioner argues that a bare perusal of the order passed by the appellate authority dated 30.05.2017 (Annexure P-15) would show that the appeal filed by the petitioner was decided by passing a totally cryptic and non-speaking order. Learned Senior counsel appearing for the petitioner submits that it was incumbent upon the respondents to mention in the impugned order as to why the grounds taken by the petitioner in his appeal were not found meritorious enough so that the petitioner should know as to what weighed in the mind of

the authority concerned while passing the order in appeal.

3. Learned counsel for the respondents submits that once it has been mentioned in the impugned order that appeal was dismissed after due consideration, no further reasons were required to be given in the order passed in the appeal.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It is a settled principle of law settled by the Hon'ble Supreme Court of India in *Civil Appeal No.1621-1986 titled as Ram Chander vs. Union of India and others, decided on 02.05.1986*, that every executive order has to be passed by giving reasons so that the employee concerned should know as to what weighed in the mind of the authority concerned while passing the said order and when an appeal is preferred against the order of punishment, it is incumbent upon the appellate authority concerned to deal with every objection taken by the appellant so that the employee concerned can take appropriate remedy against the view of the appellate authority. Relevant paragraphs of the judgment are as under:-

“8. So also in [Tara Chand Khatri v. Municipal Corporation of Delhi & Ors.](#) [1977] 2 S.C.R. 198 Court observed that there was a vital difference between an order of reversal by the appellate and an order of affirmance and the omission to give reasons for the decision may not by itself be a sufficient ground for passing such order, relying on the test laid down by Subba Rao, J. in *Madhya Pradesh Industries Ltd. v. Union of India* [1966] 1 S.C.R. 466. "Ordinarily, the appellate or revisional authority shall give its own reasons succinctly; but in a case of affirmance where the original tribunal gives

adequate reasons, the Appellate Tribunal may dismiss the appeal or the revision, as the case may be, agreeing with those reasons."

9. These authorities proceed upon the principle that in the absence of a requirement in the statute or the rules, there is no duty cast on an appellate authority to give reasons where the order is one of affirmance. Here, rule 22(2) of the Railway Servants Rules in express terms requires the Railway Board to record its findings on the three aspects stated therein. Similar are the requirements under rule 27(2) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. Rule 22(2) provides that in the case of an appeal against an order imposing any of the penalties specified in r. 6 or enhancing any penalty imposed under the said rule, the appellate authority shall 'consider' as to the matters indicated therein. The word 'consider' has different shades of meaning and must in r.22(2), in the context in which it appears, mean an objective consideration by the Railway Board after due application of mind which implies the giving of reasons for its decision."

6. When the said settled principle of law is applied in the present case, impugned order dated 30.05.2017 (Annexure P-15) cannot sustain in the eyes of law as the same is totally cryptic and non-speaking as no reason has been given for the conclusion arrived at by the authority concerned.

7. Keeping in view the facts and circumstances recorded hereinbefore, coupled with the settled principle of law, order dated 30.05.2017 (Annexure P-15) passed by the appellate authority in the appeal preferred by the petitioner, is set aside and the case is remanded back to the

appellate authority to pass a fresh appropriate speaking order within a period of 08 weeks from the date of receipt of copy of this order.

8. It will be appreciated in case before passing the said speaking order, petitioner will be given due opportunity of hearing so that he can explain his objections before the appellate authority.

9. Civil miscellaneous application pending, if any, is also disposed of.

January 20, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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