

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

218

CWP-18696-2018 (O&M)
Date of decision: 30.04.2024

Satish Kumar Sekhri

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vipin Mahjan, Advocate for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. The prayer in the present petition is for quashing the order dated 04.02.2016, Annexure P-7 passed by respondent No.2 vide which recovery has been ordered to be made from the petitioner and for directing the respondent department to release his gratuity alongwith interest @ 12% per annum.
2. Learned counsel would contend that a substantial amount of recovery from the petitioner i.e. Rs.25,39,738.50 paise had been ordered vide impugned order dated 04.02.2016, Annexure P-7 and his gratuity was also not released, against which he filed an appeal before the Authority in 2017. However, the same was rejected without assigning any reasons, vide order dated 28.02.2017, Annexure R-2/T, copy of which had also not been furnished to him and he became aware, only when the same was appended alongwith the written statement filed to the present petition. He prays for liberty to supplement the appeal and submits on instructions from the petitioner that he would be satisfied if the matter is sent back to the concerned authority and decided afresh taking into account the aforesaid.
3. Learned State counsel is unable to support the order passed

dismissing the appeal. However, prays that the appellate authority would not be

averse to having a relook and pass it afresh in accordance with law.

4. On hearing learned counsel on either side, it is apparent that the appeal filed by the petitioner, against the order of recovery, was dismissed by the authority by passing a laconic and non-speaking order.

5. It is imperative that whenever a decision is taken by a quasi-judicial authority, it must display attributes of a judicial order. Similar observations were made by Hon'ble the Supreme Court, in **Mahabir Prasad Santosh Kumar vs. State of U.P.**, (1970) 1 SCC 764, that to ensure that the decision is reached in accordance to law and not on the ground of policy or expediency, nor is a result of any caprice, whim or fancy, it is obligatory for quasi-judicial authority to recording of reasons in support of it.

6. A gainful reference can be made to the judgment in **Dev Kumar, Constable vs. State of Haryana**, 2014(1) S.C.T. 215, wherein orders passed by the appellate authority were set side due to application of independent mind and failed to record any reason, much less cogent, by the authority in support of its order.

7. Hon'ble the Supreme Court, while condemning the mechanical way of dismissing an appeal under the Railway Servants (Discipline and Appeal) Rules, 1968, held in **Ram Chander vs. Union of India**, (1986) 3 SCC 103, that the context in which the word "consider" appears in Rule 22(2), must mean that the Railway Board shall duly apply its mind and give reasons for its decision. It was further observed that duty to give reasons is an incidence of the judicial process and therefore, in discharging quasi-judicial functions, the Appellate Authority must give reasons for its decision, in accordance with principles of natural justice.

8. It has been observed in a catena of judgments that even in orders of affirmation, reasons are to be recorded by the judicial or quasi-judicial authority,

to ensure minimum chances of arbitrariness and to depict application of mind. Reverting to the case at hand, appeal being a substantive right, it was necessary for the Appellate Authority to have dealt with the grounds that were raised while laying a challenge to the order of recovery, since the point of view of an authority higher than the one, the order of which was appealed against, would enable the Court also to have a better conspectus of the matter.

9. The terse nature of the impugned order, highlights the conspicuous deficiency in consideration by the appellate authority, while arriving at the decision, which otherwise should have been self-contained, speaking and reasoned.

10. In view of the aforesaid, the order dated 28.02.2017 is set aside. As prayed, the petitioner is permitted to supplement the grounds taken within a period of four weeks, in such eventuality, the appellate authority to decide the matter afresh, taking note of the pleas raised therein, else based on the original appeal, after affording an opportunity of hearing to him. It is clarified that nothing observed hereinabove shall be construed to be an expression of opinion on the merits of the case.

(AMAN CHAUDHARY)
JUDGE

30.04.2024

Hemant

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