

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-21104-2017 (O&M)
Date of decision: 16.02.2024

Kulbhushan Singh

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. B.S. Rana, Sr. Advocate with
Ms. Niharika Singh, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

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 order dated 27.08.2009, whereby the petitioner has been terminated from service on account of being absent from duty and the order dated 27.01.2014, whereby the appeal filed by the petitioner has been dismissed.
2. Learned Senior counsel would submit that the petitioner being unsuccessful in the writ petition filed by him challenging the impugned termination and order in appeal, had filed LPA-281-2013, stating therein that he had in fact performed his duties during the period, for which he had been chargesheeted by placing reliance on certain additional documents. In view of this he was granted permission to withdraw the LPA with liberty to file it against the impugned order before the Appellate Authority. It is his further submission that the petitioner had 19 years of unblemished service and a harsh punishment has been imposed. The appeal dated 13.05.2013, Annexure P-12, was submitted

before the Appellate Authority and while referring to paras 6 to 8 thereof, the submission made was that the details of the petitioner being unwell and also having participated in the admission process of the college, during the alleged period of absence was specifically mentioned alongwith supported documents in the shape of proof of depositing books in the library, receiving of Form 16 from the college office as also two cheques, copies of admission forms bearing his signatures. However, the appeal was rejected by passing a non-speaking order, without dealing with any of the above.

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.

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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.

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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 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, 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 27.01.2014 and it being laconic and cryptic, is liable to be and hereby set aside.

9. 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

16.02.2024

M.Kamra

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