

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

221

CWP-26253-2017 (O&M)

Date of decision: 22.04.2024

Dr. Bhupinder Pal Singh Gill

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sunny Singla, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J (Oral)

1. The prayer in the present petition is for quashing the order dated 21.08.2017, Annexure P11, passed by respondent No.1.
2. Learned counsel would contend that the petitioner who was posted as Senior Medical Officer, Primary Health Centre, Kauhrian, District Sangrur, was awarded a penalty of censure for having misused the power as DDO with regard to drawal of house rent allowance for the period from 17.10.2008 to 31.12.2008 amounting to Rs.4459/-. Appeal against the same was dismissed vide order dated 11.04.2013 and it was set aside by this Court on 23.01.2017 in CWP-22064-2014, on the ground that no reasons were assigned therein, with a direction to the appellate authority to pass a fresh order after giving the opportunity of hearing. The subsequent order under challenge, passed on 21.08.2017, Annexure P11, also suffers from a similar defect. He prays that the matter be reconsidered by the Appellate Authority in a time bound manner, taking into account the above facts.
3. Learned State counsel despite his best efforts is unable to controvert the aforesaid facts and submits that the respondents would not be averse to have a

relook at the matter.

4. Heard.

5. Notably, the order dismissing the appeal filed against the punishment awarded to the petitioner was set aside by this Court vide judgment dated 23.01.2017 in CWP-22064-2014, as the same was passed without giving any reasons, with the directions to decide the same expeditiously, after granting him an opportunity of hearing. However, his case was rejected, by upholding the penalty of censure and recovery imposed on him, by the appellate authority yet again by passing a non-speaking and cryptic order.

6. Hon'ble the Supreme Court in the case of **National Highways Authority of India and others vs. Madhukar Kumar and others**, (2022) 14 SCC 221, had observed that the administrative authorities exercising judicial or quasi-judicial functions must record reasons for their decisions, as these help prevent arbitrariness and ensure fairness in decision-making processes.

7. In **Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank vs. Jagdish Sharan Varshney and others**, (2009) 4 SCC 240, it was held that an order of affirmation need not contain as elaborate reasons as an order of reversal, but that does not mean that it need not contain any reasons whatsoever. The appellate order should disclose application of mind by giving some reasons, at least in brief.

8. This Court in **Dev Kumar, Constable vs. State of Haryana**, 2014(1) S.C.T. 215, set aside the order passed by the Appellate Authority, on the ground that not only due application of independent mind had been found to be missing, but the authority had also failed to record any reason, much less cogent, in support of its order.

9. It is trite that reasons are to be recorded by the authority in a judicial

or quasi-judicial order, even if it is one of affirmation, to depict that it had applied its mind, which minimises the chances of arbitrariness. 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.

10. It is discernible from the vague nature of the impugned orders that there was a conspicuous deficiency in the consideration by the appellate authority regarding the punishments imposed earlier, while reaching the decision, which should otherwise have been self-contained, speaking and reasoned.

11. Even for this Court to have a holistic approach, it is much required that there is availability of a point of view of an authority higher than the one, the order of which was appealed against.

12. In view of the aforesaid, the order dated 21.08.2017, Annexure P-11 is set aside, directing the appellate authority to pass an order afresh, taking note of the pleas raised by the petitioner in appeal, within a period of six months, 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.

13. Disposed of.

22.04.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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