

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CWP-21960-2021  
Date of decision: 29.02.2024

Darshan Singh

...Petitioner

versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present: Mr. R.K. Arora, Advocate with  
Mr. Jugam Arora, Advocate for the petitioner.

Mr. Swapan Shorey, D.A.G, Punjab.

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**AMAN CHAUDHARY. J.**

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for quashing the impugned memo dated 20.06.2012, Annexure P-1, whereby the petitioner was dismissed from service; orders dated 26.11.2020, Annexure P-5 passed by respondent No. 3 upholding his dismissal, as also 26.07.2021, Annexure P-16 rejecting the appeal filed by him.
2. Learned counsel would submit that against the petitioner, who was working as Patwari, a private complaint was filed against him before the Sub Divisional Judicial Magistrate, Gidderwaha on 27.03.2001 under Sections 420/4674/468/471/34 IPC, by one Sh. Raj Singh s/o Hakam Singh, r/o Village Kakhan Wali, Tehsil Malout, wherein he was convicted by the Court of learned Chief Judicial Magistrate, Sri Muktsar Sahib, vide judgment dated 05.11.2011. Consequently, his services came to be terminated by the Deputy Commissioner-cum-Collector, Sri Muktsar Sahib on 20.06.2012 without holding any departmental

by rather relying on under Rule 5 (ix) of the Punjab Civil Services

(Punishment and Appeal) Rules, 1970 (hereinafter to be referred as '1970 Rules').

Though, the appeal filed by him against the judgment of conviction was dismissed on 04.04.2014, but in the revision preferred before this Court, being CRR-1278-2014, the substantive sentence imposed was modified and he was ordered to be released on probation for a period of one year, vide judgment dated 22.10.2019.

3. On the other hand, learned State counsel would contend that the petitioner has been convicted by the trial, Appellate and the revisional Court. Charges were duly proved against him in the regular departmental enquiry, thus was rightly dismissed from service. No illegality was committed by the Appellate Authority while passing the impugned order. He prays for dismissal of the writ petition.

4. Heard learned counsel on the either side.

5. The petitioner is aggrieved against the order dated 26.07.2021, Annexure P-16, passed by the appellate authority, which he approached on having been granted probation, that had simply rejected it on the ground that he did not produce any new fact during the course of personal hearing. His unblemished service of 30 years that was to his credit was not considered as also that as per Rule 8 of the 1970 Rules, no order could be passed without holding an inquiry, for imposing any of the penalties specified in clauses (v) to (ix) of Rule 5, Rule 8 of 1970 Rules. Further that, Section 12 of the Probation of Offenders Act 1958 provides for Removal of disqualification attaching to conviction, inasmuch as that a person found guilty of an offence and dealt with under the provisions of Section 3 or Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

6. A worthwhile reference can be made to **Mahabir Prasad Santosh**

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.

7. This Court in the case of **Dev Kumar, Constable vs. State of Haryana**, 2014(1) S.C.T. 215, had 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 reasons thereof, in support of its order.

8. The appeal being a substantive right, the Appellate Authority was required to deal with the grounds that were raised by the petitioner therein, while laying a challenge to the order of punishment. A perusal of the order reveals that it does not contain the reasons it should have, on the basis whereof the decision has been reached. It was thus imperative for it to be self-contained, speaking and reasoned. The non-application of mind is apparent in the cryptic impugned order.

9. 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.

10. On a conspectus evaluation of the matter and as a fall out thereof, the impugned order dated 26.07.2021 is hereby set aside. The matter is remitted to the Appellate Authority, for rendering a decision on merits, taking note of the pleas raised, in accordance with law, within a period of three months, after affording a proper opportunity of hearing to the petitioner. Needless to say, that the

observations made herein would not be construed as an expression of opinion on

the merits of the case.

11. The present petition stands disposed of.

(AMAN CHAUDHARY)  
JUDGE

29.02.2024  
G Arora

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