

**CWP-5177-2017 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****(221)****CWP-5177-2017 (O&M)****Date of Decision : August 14, 2024****Dr. Charanjit Singh****.. Petitioner****Versus****State of Punjab and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Puneet Gupta, Advocate, for the petitioner.

Mr. Arun Gupta, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 20.08.2015 (Annexure P-13) by which, the punishing authority, while passing the order in the disciplinary proceedings, imposed punishment of stoppage of two increments with cumulative effect upon the petitioner as well as against the order dated 10.06.2016 (Annexure P-15) by which, the appeal filed by the petitioner against the said punishment order, has been rejected.

2. Learned counsel for the petitioner submits that the order passed in appeal is totally cryptic and non-speaking and does not give any reason for not accepting the appeal of the petitioner whereas, as per the settled principle of law, the grounds raised in appeal have to be taken into account and decided while passing the order in appeal hence, the order dated 10.06.2016 (Annexure P-15) passed in appeal is liable to be set aside.



3. Learned counsel for the respondents submits that once, a detailed order has been passed by the punishing authority while imposing the punishment, the order passed by the Appellate Authority by taking into consideration the said order of punishment is perfectly valid and legal.

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

5. It may be noticed that as per the settled principle of law, the order in appeal has to be speaking order so as to decide all the issues raised by an employee against the order of punishment. There has to be an application of mind by the Appellate Authority to the grounds raised qua the order of punishment. In case the reasons are given, the employee can ascertain as to what weighed with the Appellate Authority to reach the conclusion.

6. Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.457 of 1970 titled as Mahabir Prasad Santosh Kumar vs. State of U.P and others, decided on 02.04.1970***, the order in appeal should be speaking order so as to discuss every objection taken by the officer concerned against the order of punishment. Relevant paragraphs of the said judgment are as under:-

"5. The case discloses a disturbing state of affairs. The authorities have disclosed by their conduct a reckless disregard of the rights of the appellants. The order passed by the District Magistrate cancelling the licences was quasi-judicial; it could be made only on a consideration of the charges and the explanation given by the appellants. That necessarily implied that the District Magistrate had to give some reasons why he held the charges proved, and the

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explanation unacceptable. When the matter was carried in appeal, the State Government could at least have acted with some awareness that citizens have rights which must be protected against possible arbitrary action by subordinate officials. The District Magistrate is not made the final authority in cancelling the licence. The appellants had a right to carry on their business, and as they held a licence to carry on their business they could be deprived of their right by an executive order supported by good and adequate reasons. The relevant rules granted a right of appeal to the State Government against that order, and that implied that the aggrieved party must have an opportunity to convince the State Government that the order passed by District Magistrate was erroneous. That right could be effectively exercised if reasons be recorded by the District Magistrate and supplied to the aggrieved party. If the aggrieved party is not supplied the reasons, the right to appeal is an empty formality.

6. *From the materials on the record it cannot be determined as to who considered the appeal addressed to the State Government, and what was considered by the authority exercising power on behalf of the State Government. The practice of the executive authority dismissing statutory appeals against orders which prima facie seriously prejudice the rights of the aggrieved party without giving reasons is a negation of the rule of law. This Court had occasion to protest against this practice in several decisions : See Madhya Pradesh Industries Ltd. v. Union of India, (1966)1 SCR 466 (per Subba Rao, J.); Bhagat Raja v. Union of India, (1967)3 SCR 302; State of Madhya Pradesh v. Narsinghdas Jankidas Mehta, C.A. No. 681 of 1966, decided on 29-4-1969(SC); State of Gujarat v. Patel Raghav Nath, C.A. No. 723 of 1966, decided on 21-4-1969 and Prag Das Umar Vaishya v. Union India, C.A. No. 657 of 1965, decided on 17-8-1967 (SC). The power of the District Magistrate was quasi-judicial : exercise of the power of the State Government was subject to the supervisory power of the*

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High Court under Article 227 of the Constitution and of the appellate power of this Court under Article 136 of the Constitution. The High Court and this Court would be placed under a great disadvantage if no reasons are given, and the appeal is dismissed without recording and communicating any reasons".

7. In the present case, the observation of the Appellate Authority are being reproduced for the ready reference:-

“ 6. That Dr. Charanjit Singh, Veterinary Officer, Civil Veterinary Officer, Thathi Sohal (Taran Tarn) now Civil Veterinary Hospital, Talwara (Hoshiarpur) has filed an appeal before the Hon’ble Animal Husbandry Minister vide letter dated 23.9.2015 for setting aside the punishment of stoppage of 2 annual increments with cumulative effect issued vide letter no.9/28/13-A.H.1(9)3657, dated 20.08.2015. After considering that appeal of Dr. Charanjit Singh, Veterinary Officer, Civil Veterinary Officer, Thathi Sohal (Taran Tarn) now Civil Veterinary Hospital, Talwara (Hoshiarpur) is decided to reject same by the competent authority. Therefore, the appeal of the officer is rejected on Government level.”

8. From the above reproduction, it is clear that not even a single reason has been given by the Appellate Authority as to what weighed with their mind so as to reject the appeal of the petitioner. Further, in the appeal, which has been attached as Annexure P-14, the detail objection has been raised to the order passed by punishing authority and not even a single objection has been addressed to while passing the order in appeal hence, the order passed in appeal is contrary to the settled principle of law noticed hereinbefore and cannot be treated as speaking order.

9. Keeping in view the above mentioned facts coupled with the settled principle of law settled in ***Mahabir Prasad Santosh Kumar’s case***

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(supra), the impugned order 10.06.2016 (Annexure P-15) cannot be sustained in the eyes of law and is accordingly set aside. The case is remanded back to the Appellate Authority to pass a fresh speaking order in accordance with law with due application of mind within a period of eight weeks of the receipt of copy of this order.

10. The present writ petition is disposed of in above terms.

11. Any civil miscellaneous application pending if any, also stands disposed of.

August 14, 2024*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No