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

(223) CWP-6375-2017
Date of Decision : August 28, 2024

Jatinder Singh .. Petitioner

Versus

State of Punjab and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Arora, Advocate, for the petitioner.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that upon conviction by a competent Court of law in criminal proceedings, the services of the petitioner were terminated by the Director, State Transport, Punjab on 12.04.2016 (Annexure P-6) against which order, the petitioner had filed an appeal before the Government, which appeal has been rejected by a totally cryptic and non-speaking order and has been conveyed to the petitioner by the Superintendent and no order passed by the Appellate Authority dismissing the appeal has been conveyed to the petitioner.

2. Learned counsel for the respondents submits that once the appeal has been considered by the competent authority and rejected, conveying of the said decision to the petitioner by the Superintendent is

perfectly valid and legal.



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

4. It is a settled principle of law that once an appeal is preferred against an order causing prejudice to an employee, the Appellate Authority is required to look into the grievance raised in the appeal while passing the appropriate order and all the grievances raised are to be decided in accordance with law by passing appropriate speaking order.

5. 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 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 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."*

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6. In the present case, not only that there is no order passed by the Appellate Authority rejecting the appeal depicting the reasons for the same, only the decision of the competent authority to reject the appeal has been conveyed by the Superintendent, which is contrary to the settled principle of law. Hence, in the facts and circumstances of the present case, the Appellate Authority is directed to pass appropriate speaking order on the appeal of the petitioner within a period of eight weeks of the receipt of copy of this order giving due reasons for the conclusion arrived at, which reasons will be conveyed to the petitioner also for his information and necessary action.

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

August 28, 2024*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No