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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4449-2018 (O&M)
DECIDED ON: 21.03.2024

SURENDER KUMARPETITIONER
VERSUS
UT OF CHANDIGARH AND ORS.RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Ms. Ritam Aggarwal, Advocate,
for the petitioner.

Ms. Akansha Sawhney, Addl. Standing counsel, and
Mr. Ankit Midha, Advocate,
for respondent Nos.1 and 2.

Mr. Sanjiv Ghai, Advocate, and
Mr. Parminder S. Kaul, Advocate,
for respondent No.3.

Mr. Abhishek Thakur, Advocate, and
Mr. Vishal Singal, Advocate, for
Mr. Sanjeev Sharma, Advocate,
for respondent No.4.

SANJAY VASHISTH, J (ORAL)

1. By presenting the application to the Municipal Corporation Chandigarh, petitioner claimed his appointment to the post of Municipal Chief Accountant. The said request was forwarded to respondent No.2 i.e. Secretary Chandigarh Administration, Local Self Government Department, which in turn was rejected and same is under challenge before this Court by way of present writ petition.
2. Rejection order dated 08.06.2016 has been conveyed to the Commissioner, Municipal Corporation, Chandigarh, and in furtherance

thereto, same is informed to the petitioner, vide letter dated 20.06.2016, (Annexure P-16).

3. For convenience, impugned order dated 08.06.2016 is reproduced here under:-

*“No.6/1/1046-FII(8)-2016/5341
CHANDIGARH ADMINISTRATION
LOCAL GOVERNMENT DEPARTMENT.*

*Chandigarh,
dated*

*To
The Commissioner,
Municipal Corporation,
Chandigarh.*

*Subject: Appointment to the post of Municipal Chief
Accountant.*

** * * **

*Reference your letter No.CMC/Estt./E-1/2016/1986,
dated 22.3.2016, on the subject noted above.*

*2. It is informed that there is no justification to consider
the of Shri Surender Kumar, Accounts Officer, Municipal
Corporation, Chandigarh to appoint him as Municipal Chief
Accountant or Chief Accounts Officer.*

*Superintendent Local Govt.,
For Secretary Local Govt.,
Chandigarh Administration”*

4. On the bare perusal of the impugned order, none can dispute that same has been passed by respondent No.2 without noticing any fact, reason or any statutory provision, as there is no such noticeable reference in the order.

5. It is also settled proposition under the law that for required administrative action, there cannot be any judicial opinion at first instance. Firstly, there has to be some reason assigned in the action/order and thereafter, same can be subjected for its judicial review.

6. Thus, at this stage, this Court is of the considered view that the issue involved in the present writ petition should be re-decided with due

application of mind by recording the relevant facts and provisions of law vis-a-vis the claim raised by the petitioner.

It is also noticed by this Court that the representations addressed to the respondent-Municipal Corporation and same being appended with the present writ petition also, do not bear details of the facts and the reasons because of which petitioner is claiming his right through the representation. Therefore, at first instance, the authorities are required to take appropriate decision in accordance with law.

7. Consequently, the impugned order dated 08.06.2016 (Annexure P-16) passed by respondent No.2 is quashed, same being non-speaking. However, petitioner would be at liberty to submit a detailed representation to respondents No. 2 and 3 substantiating therein his right, covering factual as well as legal aspect within a period of one week from today. On doing so, concerned respondent would decide the same within four weeks thereafter by passing a speaking order detailed with reasons and immediately thereafter, petitioner would be apprised of the final decision.

8. At this stage, Ms.Ritam Aggarwal, learned counsel for the petitioner expresses her apprehension that the respondents may delay its decision to frustrate the cause, because petitioner is due to retire on 30.06.2025.

9. Considering the apprehension expressed by the counsel for the petitioner, it is directed that respondents would ensure its decision within a time bound manner, as indicated hereabove in the order. Accordingly, the present petition is disposed of.

10. However, Registry would list the petition only to apprise this Court about the status of compliance of the direction, given by this Court.

21.03.2024

rashmi

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No