

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

CWP-5964-2018 (O&M)
Date of Decision: 24.04.2024

Karandeep Kaur
...Petitioner
Versus
State of Punjab and others
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. H.S.Baath, Advocate for the petitioner.
Mr. Swapan Shorey, DAG Punjab
Mr.Gagandeep Singh, Advocate for respondent No.2.

AMAN CHAUDHARY, J. (Oral)

1. The prayer in the present petition is for quashing the order dated 20.02.2017, Annexure P-4, vide which resignation filed by the petitioner was accepted and order dated 10.03.2017, Annexure P-6 passed by the respondent No.2, whereby her application for withdrawal thereof has been rejected.
2. Learned counsel submits that the petitioner was appointed as Computer Faculty in GSSS, Khukhrain, District Kapurthala on 09.09.2010. She, being unmarried and sole caretaker of her retired and aging parents who put up at Amritsar, had to travel a total of around 120 kilometers every day, changing buses on her way and in December 2016 her father fell severely ill, all of which led her to submit a resignation dated 11.01.2017, which was accepted on 20.02.2017, Annexure P-4. She approached to withdraw the same on 09.03.2017, but was rejected vide a dated 22.03.2017, without assigning any reason whatsoever. He, thus, prays that the matter be reconsidered by the respondents in a time bound manner, taking into account the above facts.

3. Learned State counsel 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. Concededly, the petitioner joined as a Computer faculty on 09.09.2010 and in her service of a little over 6 years, she had to commute a fairly long distance daily, while also taking care of her aged and ailing parents. Her transfer request was also not heeded to, for reasons best known and she even met with accidents on a few occasions while on her way to the posting. Under such compelling circumstances, she submitted her resignation, however, on second thought, when she applied to withdraw the same, a month after it had been accepted, her request was rejected vide non speaking order dated 22.03.2017, whereas similarly situated teachers, Amanpreet Kaur and Vishal Lopoke were allowed to rejoin services.

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

7. Similarly, in **M/s Kranti Associates Pvt. Ltd. And Another vs. Sh. Masood Ahmed Khan and Others**, 2010(9) SCC 496, Hon'ble the Supreme Court observed that quasi-judicial or administrative authorities passing an order affecting the rights of parties, are under a legal obligation to give reasons while doing so. Such order must speak and not be like the 'inscrutable face of a Sphinx'.

The principles, as relevant to the present case, laid down therein read thus:

“a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done

it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. XX XX XX

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

XX XX XX

1. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or ‘rubber-stamp reasons’ is not to be equated with a valid decision making process.

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8. It was observed by Hon'ble the Supreme Court in **Mahabir Prasad Santosh Kumar vs. State of U.P.**, (1970) 1 SCC 764, that it is obligatory on the to quasi-judicial authority to record reasons in support of its decision, as it ensures that the order is concluded in accordance to law and is not a result of caprice, whim or fancy, or reached on ground of policy or expediency.

9. It is a settled principle of law that justice should not only be done but seen and also felt to have been done. As such, a pragmatic approach instead of pedantic must be adopted by this Court, especially when pitted against technical considerations.

10. On a cumulative consideration of the factual matrix of the case in light of the law explicated above, it is evincible that in any judicial or quasi-judicial order, even if it is one of affirmation, reasons must be recorded by the authority to signal that the decision was reached in by it accordance to law, which is the essence and virtually a part of the due process.

11. As a sequel thereto, the impugned orders dated 20.02.2017 and 10.03.2017 are set aside, directing the respondents to pass an order, taking a sympathetic view of the pleas raised, including the orders in case of employees, stated to be similarly circumstanced, within a period of three months, which this Court has no reason to believe the authorities would not address in a just, fair and reasonable manner. Upon doing so, after notice and hearing offered to her and if

found entitled, grant the benefit forthwith. Needless to say, if the orders are adverse to her interest, the same shall contain reasons and the petitioner shall be free to seek legal redress thereupon. It is clarified that nothing observed hereinabove shall be construed to be an expression of opinion on the merits of the case.

April 24, 2024
Raman

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No