

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

CWP-9196-2018 (O&M)
Date of decision: 29.04.2024

Sukhwinder Ram

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Avtar Singh Bhatti, Advocate for the petitioner.

Mr. Satnampreet Singh, DAG, Punjab.

Mr. Sanjeev Sharma, Advocate for respondent No.5.

AMAN CHAUDHARY, J (Oral)

1. The prayer in the present petition is for quashing of punishment order dated 10.11.2016, Annexure P-7, passed by respondent No.3 vide which one annual increment of the petitioner was stopped and further order dated 09.11.2017, Annexure P-9, passed by respondent No.1 vide which the appeal against it was dismissed.
2. Learned counsel would contend that on the charges of failure to stop convicts from coming out of the barracks and fighting, as also on account of recovery of a mobile phone from a convict, the petitioner, posted as Assistant Superintendent (On Pay Scale), was suspended vide order dated 05.03.2015 and punishment of stoppage of one annual increment was awarded to him vide order dated 10.11.2016. A statutory appeal was filed against the same, taking a number of grounds therein however, it has been dismissed by passing a non-speaking order. He prays that the matter be reconsidered by the appellate authority in a time bound manner, taking into account the above facts.
3. Per contra, Learned State counsel as also learned counsel for

respondent No.5 contend that the petitioner was found negligent in his work and guilty of the charges leveled against him in the charge-sheet was appropriately awarded the punishment after giving him personal hearing and appeal against it was also rightly dismissed. However, learned State counsel submits that the Department would not be averse to have a relook at the order passed by the appellate authority.

4. Having heard learned counsel on either side, this Court finds that the appeal filed by the petitioner, against the punishment of stoppage of one annual increment, was dismissed by the authority by passing a non-speaking and cryptic order.

5. It is trite that disciplinary proceedings against employees conducted under relevant service rules, being quasi-judicial in nature, make it necessary that orders passed by the disciplinary/appellate/reviewing authorities should have the attributes of a judicial order. Likewise, it was held by Hon'ble the Supreme Court, in **Mahabir Prasad Santosh Kumar vs. State of U.P.**, (1970) 1 SCC 764, that recording of reasons in support of a decision by a quasi-judicial authority is obligatory, to ensure that the decision is reached in accordance to law and is neither reached on ground of policy or expediency, nor is a result of any caprice, whim or fancy.

6. When not only due application of independent mind was found to be missing, but the authority had also failed to record any reason, much less cogent, in support of its order, the same was set aside by this Court in **Dev Kumar, Constable vs. State of Haryana**, 2014(1) S.C.T. 215.

7. A gainful reference can be made to the judgment in **Ram Chander vs. Union of India**, (1986) 3 SCC 103, wherein Hon'ble the Supreme Court while dealing with the appellate provisions under the Railway Servants (Discipline and Appeal) Rules, 1968 condemned the mechanical way of dismissal of appeal. It

which it appears, must mean that the Railway Board shall duly apply its mind and give reasons for its decision. The duty to give reasons is an incident of the judicial process and emphasised that in discharging quasi-judicial functions the Appellate Authority in accordance with natural justice must give reasons for its decision.

8. It is settled law that even while passing an order of affirmation, to ensure minimum chances of arbitrariness, reasons are to be recorded by the judicial or quasi-judicial authority, thereby depicting application of mind. Since appeal is a substantive right, it was required for the Appellate Authority to deal with the grounds that were raised while laying a challenge to the order of punishment. The point of view of an authority higher than the one, the order of which was appealed against, would enable this Court to also have a better conspectus of the matter.

9. Given the vague nature of the impugned order, it is clear that there exists a conspicuous deficiency in the consideration by the appellate authority regarding the punishment imposed, while reaching the decision, which should otherwise have been self-contained, speaking and reasoned.

10. In the wake of above, the impugned order dated 09.11.2017 is set aside, directing the appellate authority to pass an order afresh, taking note of the pleas raised by the petitioner in appeal, within a period of six months, after affording an opportunity of hearing to him. It is clarified that nothing observed hereinabove shall be construed to be an expression of opinion on the merits of the case.

11. Disposed of.

(AMAN CHAUDHARY)
JUDGE

29.04.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No