

(2016) 02 P&H CK 0074
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 12692 of 1993

Sardar Ajit Singh (Dead) through LRs	APPELLANT
Vs	
State of Punjab and another	RESPONDENT

Date of Decision : 12-02-2016

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2016) 2 SCT 151

Hon'ble Judges : Rajiv Narain Raina, J.

Bench : Single Bench

Advocate : Harkesh Manuja, Addl. AG, Punjab, for the Respondent

Final Decision : Allowed

Judgement

Rajiv Narain Raina, J. (Oral) - Indisputably, the petitioner had to approach this Court four times till 1993 after he was denied promotion as Deputy Superintendent of Police. A junior as Inspector of Police was promoted while the petitioner was ignored on account of adverse remarks recorded in his ACR for the year 1988-89 (P-3). In his integrity column it was recorded that he is a corrupt officer. In the general remarks the reporting officer thought that he was a corrupt, unreliable and inefficient Police Officer. Apart from that he was also a coward in performance of duties at Police Station Phagwara a "totally Nil". Against these remarks, he had approached this Court on earlier occasions. This Court had directed re-consideration of his case by the competent authority. On his representation the Government, expunged adverse remarks in the column of integrity and washed out the column of General Remarks. The Division Bench of this Court had directed in CWP No.13845 of 1992 as follows:-

"A direction is given to the respondents to reconsider the case of the petitioner for promotion to the post of Deputy Superintendent of Police as on January 19, 1991 i.e. when the person junior to the petitioner was promoted, on the basis of the service record of the petitioner after expunction of the adverse remarks, as stated above."

2. The order was passed on March 29, 1993. Resultantly, the impugned order (Annexure P-1) has been passed on September 07, 1993 giving rise to this petition. The Additional Secretary, Home, Government of Punjab has rejected the claim for promotion to the post of DSP from the rank of Inspector "on the basis of his record". There is complete want of reasoning recorded in the order which supports the conclusion that it is nonspeaking and, therefore, it is not possible to judicially review the order without a clue of what weighed in the mind of the competent authority. For the reason that the impugned order is cryptic it violates the principles of natural justice while duty of recording reasons in an administrative order is a facet of reasonableness in Article 14 of the Constitution of India and acts as a safeguard against abuse of discretion and the power to reject arbitrarily. Besides, neither was the petitioner heard when the order was passed which right of audi alteram partem is another facet of the rule of law. Breach on any of these accounts cannot be supported in law and thus the impugned order deserves to be set aside.

3. The matter is remanded to the competent authority in the Punjab Government to pass a fresh order. The Court is told that the petitioner has passed away on July 08, 2003. His daughter has been impleaded as LR to maintain and press the writ since the cause of action has not abated. In case, the petition succeeds and relief is grantable to the petitioner representing the monetary value of the loss caused to the estate of the deceased which the daughter will be entitled to including corresponding rights in family pension or enhanced family pension or the arrears of difference of wages in case the claim for antedated promotion etc. is accepted. It may be recorded that among the many travails that the petitioner suffered due to the adverse ACR recorded and thereafter expunged was also that he was at one time prematurely retired from service against which action he had to approach this Court for directions where he remained successful. That is how he was reinstated to service till he faced the debacle presented in this petition.

4. For the reasons recorded above, the petition is allowed. A fresh order is directed to be passed. If the daughter makes a request for personal hearing or through counsel/authorized representative the same shall be granted to her. Let the entire exercise be re-done keeping in view the above directions within a period of two months from the date of receipt of certified copy of this order. The fresh order passed be placed on the record of this case for the perusal of the Court within two weeks thereafter.

5. List on 02.05.2016 to examine the result of the exercise.