

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

T.A. No. 61/3394/2020

This the 30th day of August 2021

**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)**



Govind Sharma; aged 21 years, S/o Late Sh. Om Prakash, R/o Village Majua Uttami, Tehsil Bishnah, District Jammu.

.....Applicant

(Advocate:- Mr. Rahil Raja)

Versus

State of Jammu and Kashmir and ors

.....Respondents

(Advocate: Mr. Sudesh Magotra, learned D.A.G.)

**O R D E R
[O R A L]**

(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member-J)

1. Through the present O.A., the applicant Govind Sharma prays for the following reliefs :-

- “(i) Certiorari, quashing the order No. IFCJ/Estab/2724-25 dated 14.05.2013 whereby the claim of the petitioner for compassionate appointment has been rejected by the respondent No. 2;
- “(ii) Mandamus, commanding the respondents to appoint the petitioner on grounds under the provisions of SRO 43 of 1994 keeping in view the qualification possessed by the petitioner;
- “(iii) Any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also be granted in favour of the petitioner and against the respondents along with cost.”



2. Applicant is aggrieved of the impugned order dated 14.05.2013 passed by respondents whereby the claim of applicant for appointment on compassionate grounds has been rejected. Objections have been filed by the respondents.
3. We have heard and considered the arguments of the learned counsel for applicant and learned D.A.G for respondents and gone through the material on record.
4. The impugned order reads as “In this connection, it is pointed out that the case of applicant is not covered under rule 3 of SRO 14 of 22-4-1994 being a time barred case.
5. The learned counsel for the applicant argued that the impugned order is cryptic and without reasons. Respondents have not recorded reasons in the impugned order and does not meet the requirement of law.
6. On the other hand, learned DAG for the respondents submitted that due procedure was adopted and sufficient reasoning has been given in the impugned, as such, the present T.A. being meritless deserves to be dismissed.
7. In the present case the order of the respondents is terse and is an unreasoned order spelling out no reason for rejecting the case of applicant. The impugned order is singularly lacking in giving the reasons as to how the pleas raised by the applicant were dealt with by the competent Authority. It is a settled principle that giving reasons is a hallmark of a fair administration so as to enable the affected person to know as to the manner in which his lis has been dealt with. While passing the impugned order, the only circumstance given in the impugned order is that the case is barred by period of limitation but again the impugned order is lacking in reasons for coming to the conclusion that the case is to be rejected.
8. In the instant case, it was incumbent upon the competent Authority to pass a reasoned order observing the principles of natural justice, which are totally lacking

in the present case. It is, thus, apparent that the impugned order of the respondents is very brief, sketchy and lacks reasoning. It is now well settled principle of law that in case a public authority wants to pass an adverse order, it has to follow the principles of natural justice, and to pass a speaking order.



9. Exhibiting the necessity of passing of speaking orders, the Hon'ble Apex Court in the case of Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others (2009) 4 SCC 240 has in para 8 held as under:-

“8. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of S.N.Mukherjee vs. Union of India reported in (1990) 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation”.

10. An identical question came to be decided by Hon'ble Apex Court in the case of M/s Mahavir Prasad Santosh Kumar Vs. State of U.P. & Others 1970 SCC (1) 764 which was subsequently followed in a line of judgments. Having considered the legal requirement of passing speaking order by the authority, it was ruled that “recording of reasons in support of a decision on a disputed claim by a quasi-judicial authority ensures that the decision is reached according to law and is not the result of caprice, whim or fancy or reached on grounds of policy or expediency. A party to the dispute is ordinarily entitled to know the grounds on which the authority has rejected his claim. It was also held that while it must appear that the authority entrusted with the quasi-judicial authority has reached a conclusion of the problem before him: it must appear that he has reached a conclusion which is according to law and just, and for ensuring that he must record the ultimate mental process leading from the dispute to its solution”. Such authorities are required to

pass reasoned and speaking order. The same view was again reiterated by Hon'ble Apex Court in the case of Divisional Forest Officer Vs. Madhuusudan Rao JT 2008 (2) SC 253.



11. And in Kranti Associates Private Limited and Anr. Vs. Masood Ahmed Khan and Ors., (2010) 9 SCC 496, the Hon'ble Supreme Court has held that a quasi judicial authority must record reasons in support of its conclusions. The insistence on recording of reasons is meant to serve the wider principle that justice must not only be done it must also appear to be done. In para-47, it has been held that:-

“7. Summarizing the above discussion, this Court holds:

- (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) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.
- (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.
- (g) Reasons facilitate the process of judicial review by superior Courts.
- (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned

decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

- (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.
- (j) Insistence on reason is a requirement for both judicial accountability and transparency.
- (k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.
- (l) 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.
- (m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).
- (n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".
- (o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".





12. Therefore, seen from any angle, the impugned order dated 14.05.2013 does not fulfill the legal requirements as laid down by the Hon'ble Apex Court and has no legs to stand in law. Therefore, we hold that respondents have not recorded cogent reasons and examined the matter in the right perspective.
13. After analyzing all the points raised by the applicant in this T.A., we find that orders passed by the respondents are cryptic, non-speaking and have been passed in a casual manner.
14. Accordingly, the T.A. is allowed and the impugned order dated 14.05.2013 passed respondent No. 2 is hereby quashed and set aside. The matter is remitted back to the respondent No. 2 to reconsider and dispose of the claim of the applicant for appointment on compassionate grounds by a reasoned and speaking order meeting all the grounds raised by the applicant, within a period of three months from the date of receipt of certified copy of this order in accordance with law and relevant rules on the subject and communicate the decision to the applicant. No order as to costs.

(ANAND MATHUR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Arun