CASE NO.:
Appeal (civil) 2256 of 2008

PETITIONER:
Director, Horticulture Punjab & Ors

RESPONDENT:
Jagjivan Parshad

DATE OF JUDGMENT: 31/03/2008

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM & AFTAB ALAM

JUDGMENT:
J U D G M E N T

REPORTABLE

CIVIL APPEAL NO. 2256 OF 2008
(Arising out of SLP(C) No. 22333/2005)

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the judgment passed by a Division Bench of the Punjab and Haryana High Court dismissing the Civil Writ Petition No. 6622 of 2005. Challenge in the writ petition was to the Award dated 13.1.2005 passed by the labour Court, Jalandhar.

3. Background facts in a nutshell are as follows: Respondent was appointed primarily as a Gardner on 2.2.1989. The order was revoked by the District Welfare Officer since the appointment was found contrary to the instructions of the Government. Accordingly the services were terminated on 25.1.1997. On a complaint being made by the respondent on 11.5.1999. the Labour Commissioner, Punjab, Chandigarh Bench referred the matter for adjudication to the Labour Court under Section 10(1)(C) of the Industrial Disputes Act, 1947 (in short the 'Act'). The Labour Court by Award dated 13.1.2005 held that the termination was illegal and that the workman was entitled to reinstatement with 50% back wages, continuity of service and other service benefits. A writ petition was filed challenging the Award.

The Labour Court found that though the claim was that the respondent had not worked for 240 days in any twelve calendar months preceding the date of termination, yet finding was recorded that the absence from service on Sundays and holidays have to be taken into account. Accordingly the Labour Court held that the respondent had worked for more than 240 days. The High Court dismissed the writ petition holding as follows:
"For the reasons given in the paragraph No. 8 of the Award, we find no merit in the writ petition. Dismissed."

Stand of learned counsel for the appellant is that the High Court's order is non-reasoned and the conclusions in paragraph 8 to which reference has been made in the High

Court's impugned order do not reflect the factual position clearly. Reference is made to Exh. M2 series to show that during the period from February 1996 to January, 1997 and February 1995 to January 1996 the respondent had worked much less than 240 days. It is submitted that the onus is on the respondent to prove that he had worked for 240 days in a calendar year preceding the termination.

Learned counsel for the respondent on the other supported the impugned order of the High Court.

4. As the quoted portion of the High Court's order goes to show that no reason was indicated except making reference to paragraph 8 of the Award. The conclusions in the said paragraph were assailed in the writ petition. The manner of disposal of the writ petition by the High Court leaves much to be desired. Various contentious questions were raised including one relating to whether the appellant could be treated as an industry. These aspects were not considered by the High Court.

5. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable.

6. We find that the writ petition involved disputed issues regarding eligibility. The manner in which the High Court has disposed of the writ petition shows that the basic requirement of indicating reasons was not kept in view and is a classic case of non-application of mind. This Court in several cases has indicated the necessity for recording reasons.

7. Even in respect of administrative orders Lord Denning, M.R. in Breen v. Amalgamated Engg. Union [(1971) 1 All ER 1148] observed: (All ER p. 1154h) "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 1 CR 120) it was observed:
"Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at."

8. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking-out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance (See: Chairman and Managing Director, United Commercial Bank v. P.C. Kakkar[(2003(4) SCC 364)]).

9. That being so, we set aside the impugned order of the

High Court and remit the matter to it for fresh consideration in accordance with law. We make it clear that we have not expressed any opinion on the merits of the case. It goes without saying that the High Court shall pass a speaking order recording reasons in support of its conclusions.

10. The appeal is allowed to the aforesaid extent without any order as to costs.

JUDIS