

Copy of letter No. 1362-5GS-71/18190, dated 19-4-71 from the Chief Secretary to Government, Haryana, to all heads of Departments etc.

Subject :—Passing of orders of a quasi judicial nature in speaking orders.

I am directed to invite reference to the subject noted above and to say that several instances have been brought to notice in which writ petitions filed by Government employees have been decided by the courts against the Government for the reason that the impugned orders by the authorities concerned were not in the form in which they should have been and did not meet the requirements of law. In this connection your attention is invite to the following extract from the judgement dated 17-9-1970 in the civil writ No. 2790 of 1969 *K.K. Jagia Versus Haryana State* :—

"In this petition, the petitioner has challenged the order dated March 5, 1969 and the order of rejection of his memorial by the Governor. The order dated March 5, 1969, deserves to be quashed on the ground that it is not a speaking order. The disciplinary proceedings against the petitioner were taken for punishing him in respect of the misconduct alleged against him and those proceedings were quasi judicial in nature. The order of punishment was also quasi-judicial as has been held by their Lordships of the Supreme Court in *Bachhittar Singh Versus State of Punjab* and another A.I.R. 1963 S.C. 393. The order dated March 5, 1969 as communicated to the petitioner, does not contain any reasons nor does it indicate even outlines of the process of reasoning of the punishing authority while finding his explanation to the show cause notice as unsatisfactory. In his writ petition, the petitioner has set out the objections that he raised to the findings or adverse-remarks of the Inquiry Officer which required careful study by the punishing authority. The punishing authority had also to state as seas why the objections raised by the petitioner could not be entertained or were found to the unsatisfactory. The proceedings and the order being quasi judicial in nature, the petitioner had the right to file a memorial to the Governor, a writ petition under Article 226 of the constitution in this Court and an appeal to the Supreme Court under Article 136 of the Constitution. It was, therefore, necessary for the punishing authority to state its reasons in support of the order. The reasons had to be stated in the order it-self or should have been communicated to the petitioner by way of an annexure to that order."

2. In view of the position indicated in the judgement mentioned it is obviously essential that whatever orders of a quasi-judicial nature are passed under the Punjab Civil Services (Punishment and Appeal) Rules, 1952 or any other Rules or Acts should invariably be sufficiently detailed ones and should indicate inter-alia the please taken by the employee concerned and the reasons on account of which they are considered un-satisfactory and are rejected. The detailed reasons may however either be set out in the orders themselves or may as an alternative be included in an annexure with the order.

3. It will be appreciated that the matter is of great importance because if orders are not passed in the correct form as required under the law, decisions will be given against the Government in such cases which will involve heavy financial liability and also raise administrative difficulties. It is therefore, requested that these instructions should be complied with strictly and should be brought specifically to the notice of all the authorities concerned for similar compliance by them. It may be added that in the event of failure to follow the instructions a very serious view of the matter will be taken by Government.

4. It is requested that the receipt of this communication may please be acknowledged