



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-12179-2023 (O&M)

Date of decision: 27.07.2026

Satish Kumar

...Petitioner(s)

Vs.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Manoj Chahal, Advocate
for the petitioner.

Mr. Suneel Ranga, D.A.G., Haryana.

NIDHI GUPTA, J.

Present Civil Writ Petition under Articles 226/227 of the Constitution of India has been filed by the petitioner for the issuance of a writ in the nature of certiorari to quash the impugned orders dated 23.01.2023 (P/10) and dated 26.05.2022 (P/5) vide which appeals of the petitioner challenging the adverse remarks recorded in the ACR for the year 2018-19 were dismissed without considering the facts and law on record and following the principles of natural justice as well; **and/or** further a writ in the nature of mandamus directing the respondents to expunge the adverse remark of 'doubtful' recorded in the column of integrity (honesty) and 'average' recorded in the column of classification be upgraded to 'Good' in the ACR for the year 2018-19 as has been done in all the similar cases with all consequential benefits along with 18%



interest on the arrears so calculated from the date of accrual till final payment.

2. It is *inter alia* submitted by learned counsel for the petitioner that petitioner was appointed as Conductor on 28.05.2012 on regular basis through Haryana Staff Selection Commission and joined as such at Bhiwani and has thereafter been serving the respondent-Department. It is submitted that a Report dated 04.08.2018 regarding embezzlement of Rs.45/- was submitted against the petitioner by the checking staff to the office of respondent No.3. Even though, petitioner had explained the said incident to the respondent No.3 by pointing out that the said incident had taken place when a lady passenger, who was also having a 7–8-year-old child, had denied to take ticket of the child, and while the petitioner started issuing tickets to other passengers and before he could go back to the said lady, the checking staff got the vehicle stopped for checking. After hearing the petitioner, respondent No.3 recovered Rs.4,500/- as token recovery and filed the case vide order dated 03.05.2019 (Annexure P-1).

3. It is submitted that despite filing of the case by the competent authority i.e. respondent No.3, to the utter surprise, petitioner was conveyed adverse remarks in his ACR of 'doubtful integrity' in the column of Honesty; and 'average' in the column of Classification vide letter dated 06.08.2019 (Annexure P-2) by respondent No.3 himself.

4. Learned counsel contends that the same amounts to double punishment for the alleged same charge. Accordingly, petitioner had filed



Appeal dated 30.09.2019 before the respondent No.2. Petitioner had also referred to the Instructions dated 01/14.12.1995 (Annexure P-4). However, to no avail. The Appeal filed by the petitioner came to be dismissed vide impugned order dated 26.05.2022 (Annexure P-5).

5. The petitioner had then challenged the said order dated 26.05.2022 passed by respondent No.2 through Appeal before respondent No.1 (Annexure P-9). However, even the said Appeal came to be dismissed by respondent No.1 vide order dated 23.01.2023 (Annexure P-10).

6. Learned counsel for the petitioner contends that the appeal filed by the petitioner was rejected arbitrarily without considering the facts and law on record and without following the principles of natural justice; while appeals filed by a number of similarly situated employees were allowed by the same authority i.e. respondent no.2 vide orders dated 22.06.2020, 08.12.2020 and 11.03.2020 (Annexures P-6 to P-8). The impugned action is therefore discriminatory.

7. It is further submitted by learned counsel for the petitioner that the action of respondents in the recording adverse remarks of 'doubtful' in the column of honesty (integrity), 'average' in the column of classification in the ACR for the year 2018-19, and rejecting his appeals is illegal, unconstitutional, arbitrary, discriminatory, and thus liable to be quashed being not sustainable in the eyes of law and the recording officer gravely erred while recording the said adverse remarks as, he himself had filed the report of embezzlement of Rs. 45/-by recovering token recovery



of Rs. 4500/-and as such the same amounts to double punishment for the same charge which is quite illegal.

8. Ld. Counsel further submits that Respondent no. 3, while recording the adverse remarks, has not taken into consideration the instructions dated 01.12.1995 issued by the Department itself according to which in case of embezzlement of less than Rs. 50/-, integrity (honesty) may not be recorded as doubtful on first two instances while it was the first instance faced by the petitioner during his entire service till date.

9. He accordingly prays that the present Writ Petition be allowed; and the impugned orders dated 23.01.2023 (Annexure P-10) and 26.05.2022 (Annexure P-5) be set aside.

10. *Per contra*, learned State Counsel has vehemently opposed submissions advanced on behalf of the petitioner and submitted that the orders dated 22.06.2020, 08.12.2020 and 11.03.2020 (Annexures P-6 to P-8 respectively) were not passed by respondent No.2. Therefore, contention of the petitioner that they should be applied to the present case, is not justified. Learned State counsel also submits that as per Instructions dated 17.05.1989 (Annexure R-1), if an employee has been awarded a punishment for an act of omission of commission during a particular period, his ACR of that year may be suitably downgraded. He accordingly prays for dismissal of the present Writ Petition.



11. No other argument has been raised on behalf of learned counsel for the parties. I have heard learned counsel and perused the case file in detail. I find merit in the submissions of the petitioner.

12. The charge against the petitioner is of embezzlement of Rs.45/-. Admittedly, recovery of 10 times the said amount i.e. Rs.4500/-, has already been recovered from the petitioner, pursuant to which the case of the petitioner was filed vide order dated 03.05.2019 (Annexure P-1). Yet the ACR of the petitioner for the year 2018-2019 (Annexure P-2), has been downgraded to doubtful integrity and average. It is my view that in doing so, respondents have ignored Instructions dated 01/14.12.1995 (Annexure P-4); wherein it is stipulated as follows: -

“Keeping in view the problem explained above the matter has been considered and it has been decided that the adverse remarks of 'doubtful integrity' may not be recorded in the column of integrity of the ACR of the conductors if there are one or two instances of fraud each involving the amount below Rs. 50. However if 3rd of successive fraud of any amount is detected during the year under report or the amount of first or second instance is more than Rs. 50/-, the adverse entry of 'doubtful integrity' should be made in the ACR of the conductors for that year. The first and second fraud cases each involving amount less than Rs. 50/- should be disposed of with fine of ten times and twenty times respectively as was decided in C.Os meeting held on 10/11, Nov., 1995..”



13. The said Instructions have not been denied by learned State counsel. Thus, in view of the fact that embezzlement amount is less than Rs.50; and it was the first and only case of fraud recorded against the petitioner; and that 10 times the amount i.e. Rs.4500/- has already been recovered from the petitioner, the impugned order was not justified being in the teeth of Instructions dated 01/14.12.1995 (Annexure P-4).

14. Further, the impugned order is also discriminatory and violative of Articles 14 and 16 of Constitution of India as it is not disputed that vide Annexures P-6 to P-8, adverse remarks in cases of persons similarly situated as the petitioner, rather having embezzled amount far higher amounts than the petitioner, have been expunged. By way of example, reference is made to case of one Sarjit Singh (Annexure P-7), who was charged with embezzlement of ₹150/-; And from whom Rs.15,000/- was recovered from his salary and adverse remarks have been expunged. Relevant extract of Annexure P-7 reads as under: -

"Sh. Sarjit Singh, Conductor no. 174, Haryana Roadways, Bhiwani has filed appeal against the adverse remarks recorded in his ACR for the year 2018-19. Appellant came present before the undersigned on 24.11.2020 for personal hearing and heard. On seeing the file of the employee, ACR for the year 2018-19 and hearing him personally, it is found that in column no. 10 of the ACR, in the column of number of embezzlement cases by recording as one Rs. 150/- embezzlement case, in the column of honesty 'Doubtful' is recorded and in the column of classification shown 'Average'. The above case of the employee has been finalized by the

General Manager, Bhiwani by making recovery of Rs. 15000/- from his salary and limiting his suspension period to that of received suspension allowance. From which it is clear that the employee has already suffered the punishment of recovery and limiting his suspension period to that of received suspension allowance in this embezzlement case. So, the recording of adverse remarks in the ACR of the employee is not justifiable because he got above two punishments.”

15. No viable reasons have been given by learned counsel for the State for treating the petitioner differently from the similarly situated employees, who were granted relief.
16. Keeping in view the above factual and legal position, the present Writ Petition stands **partly allowed**; and the impugned orders dated 23.01.2023 (Annexure P-10) and 26.05.2022 (Annexure P-5) are set aside and respondents are directed to expunge the adverse remark of 'doubtful' recorded in the column of integrity (honesty) and 'average' recorded in the column of classification.
17. Pending application(s) if any also stand(s) disposed of.

27.07.2026

Divyanshi

Whether speaking/reasoned:
Whether reportable:

(NIDHI GUPTA)
JUDGE

Yes/No
Yes/No