

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP no.691 of 1995(O&M)

Date of Decision :21.10.2015

Padam Singh Dhankar

....Petitioner(s)

Versus

Union of India and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

- 1)Whether reporters of local newspapers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present : None for the petitioner

Mr. B.S.Patwalia, Advocate

Mr. Ashok S Chaudhary, Addl. AG, Haryana

MAHESH GROVER, J.

There is no representation on behalf of the petitioner.

As per the facts detailed in the petition and emerging from the counter affidavit filed, the petitioner was working in the Punjab Forest Department in 1962. On 1.7.1966 the Indian Forest Service was introduced. The private respondents were recruited directly to the post. The petitioner had adverse remarks to his credit which he pleaded were not communicated to him.

Ultimately while pursuing the matter with the official respondents the adverse

comments for the period 1962-1963, 1963-64, 1964-65 and 1965-66 were expunged vide order dated 15.2.1968. For the purposes of reference adverse remarks are extracted herebelow)

“The representation of Shri P.S.Dhankar, IPS dated 4.6.1978 has been reconsidered by the Govt. and it has been decided that the confidential remarks of the year 1962-63, 1963-64, 1964-65 and 1965-66 may be read as 'Good' instead of 'Average'.”

Even though the aforesaid remarks were expunged, the grading of the petitioner was not re-calebrated. Upon pursuing the matter further the prayer of the petitioner was accepted on 21.9.1979 and his grading was thus improved from 'Average' to 'Good'. The private respondents and some other similarly situated persons apprehended that expunction of these remarks would entitle the petitioner for consideration to appointment in IFS w.e.f 1968 when the cases of the other similarly situated persons from the Punjab Forest Department were to be considered. This led to the filing of the writ petition by those who harboured such an apprehension. CWP no. 4433 of 1979 preferred by them was accepted by this Court by observing as follows:-

“In the light of the above noted authoritative pronouncements, I feel that the orders impugned cannot be sustained for being violative of the principles of natural justice in as much as the petitioners concerned were never heard before the expunction of

the remarks and the resultant effect of the same.

In the light of the above, I allow these petitions and set aside the impugned orders. This, however, does not debar the Government to look into the matter afresh after affording an opportunity of hearing to the petitioners.”

LPA preferred against this by the petitioner was dismissed as was the SLP.

The State, however, took no conscious decision even though they had the liberty to look into the matter afresh. In the meantime, the petitioner was inducted in the IFS in the year 1975.

The reply filed by the respondents indicates that the petitioner was considered thrice in 1968, 1971 and then in 1975 when he finally succeeded. On prior two occasions before his induction, his claim was rejected. It is this consideration that the petitioner seeks to enforce through the present writ petition with a prayer that the upgraded remarks should have been considered by the respondents and fresh decision be taken regarding his selection in the IFS. Since the adverse remarks stood expunged in 1968 it should have been considered as an automatic upgrading and denial of which has resulted in a consequential denial of entry into the IFS at the appropriate time.

The Court notices that apart from the fact there is no representation on behalf of the petitioner, the cause espoused in the writ petition has largely been

rendered illusory since the petitioner as also the private respondents would in all probability have retired. In any eventuality in view of the earlier writ petition the State was within its rights to consider the matter afresh by giving all parties an opportunity of hearing. It is thus open to the State to look into the matter if it wishes so.

Disposed of.

October 21, 2015
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(Mahesh Grover)
Judge