

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

**CWP- 4306-2001 (O&M)
Date of Decision : 08.07.2015**

B.B.Kaushik

..... Petitioner

versus

The State of Haryana & another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. B.B.Kaushik, petitioner in-person.

Ms. Shruti Goyal, AAG, Haryana.

Mr. Shailendra Jain, Senior Advocate with
Ms. Mannu Chaudhary, Advocate
for respondent No.2.

1. Whether Reporters of local papers 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?

AJAY TEWARI, J. (ORAL)

By this writ petition the petitioner has challenged the order of the respondents in firstly recording adverse remarks in his annual confidential report for the year 1991-1992 i.e. from 26.07.1991 to 08.01.1992 and secondly in not expunging all of them on his appeals.

The petitioner was appointed as an officer in the Haryana Civil Services (Executive Branch) in the year 1982. In the year 1991, when he was posted as Sub Divisional Officer (Civil) in Sirsa, elections

to the Municipal Committee Sirsa took place. The petitioner was the returning officer. At that time, the respondent No.2 recorded some adverse observations on the actions of the petitioner during the conduct of those elections. The following consequences emerged therefrom. The first consequence was that a charge-sheet was issued. Charge No.1(a) and (b) were related to the same grounds as were recorded by the respondent No.2. Charge No.2 was related to some other action of the petitioner in the same period and charge No.3 was related to some other defalcation in the year 1993. The second consequence was that the respondent No.2 who was the Reporting Officer recorded the following adverse remarks in the Annual Confidential Report of the petitioner for the year 1991-1992 (for a period of 5½ months that he had served under the respondent No.2) :-

“The work & conduct of the officer leaves much to be desired and is far from satisfactory. The officer is not capable even to man such a responsible post. His knowledge of Revenue Law is poor. He was not frequently accessible to the public because of his overwhelming preoccupations with the politicians and the club/cricket. He played dubious roles during election to Sirsa Municipal Committee by violating the election rules with an ulterior motive. The matter was brought to his notice & the Chief Secretary to Government, Haryana was also requested to initiate disciplinary action against him. The officer is amenable to all kinds of pressures and does not have his own independent thinking. By his actions the officer lowered the dignity of the office he held. He did not inspire any confidence among his subordinates.

The general impression about him in Sirsa was that he was in the pocket of such and such politicians and if you want to meet Shri Kaushik, see him in Sirsa Club. He is an irresponsible and unscrupulous officer. He is not fit for law & order/election duties, cannot certify the integrity of such an officer as good.

Attitude towards SC/ST *Average*

Sensitivity to social justice *Average*

Ability to take quick & effective action to prevent and quell atrocities and ensure justice to SC/ST. *Not very effective.*

Effectiveness in bringing about the Development of SC/ST *Average"*

It is not disputed that during the inquiry charges No.1(a), 1(b) and 2 were held to be not proved. On the basis thereof some of the adverse remarks recorded by the respondent No.2 were expunged. However, the following remarks were retained :-

"The work & conduct of the officer leaves much to be desired and is far from satisfactory. The officer is not capable even to man such a responsible post. His knowledge of Revenue Law is poor.

The officer is amenable to all kinds of pressures and does not have his own independent thinking. By his actions the officer lowered the dignity of the office he held. He did not inspire any confidence among his subordinates.

He is an irresponsible and unscrupulous officer. Cannot certify the integrity of such an officer as good."

The argument raised by the petitioner is that the remarks which have been retained in the Annual Confidential Report are extremely general and sweeping remarks and were actuated by malice which respondent No.2 bore against him. They not only reflect on the conduct of the official duties of the petitioner during the period under scrutiny, they rather reflect on the entire character of the petitioner. As per the petitioner for such sweeping remarks to have been recorded within a short stint of 5 ½ months can only be justified if there are any specific instances which may corroborate the same. More so, when as per the petitioner in his entire service record of 30 years no other officer has found him incapable to man any responsible post or being amenable to all kinds of pressure, or of being a person who does not have his independent thinking or that he ever lowered the dignity of any office that he held or he does not inspire any confidence among his subordinates or that he was an irresponsible and unscrupulous officer. As per the petitioner even the phrase 'can not certify the integrity of such an officer as good' is a double meaning phrase because even while it does not come out and openly say that the petitioner is not a man of integrity yet there is an invidious hint that his integrity can not be certified to be good. As per the petitioner nobody can certify about the integrity of another person and the only thing which can be stated is whether there is any material to impeach his integrity. The petitioner has further stated that though he has filed this writ petition as far back as in the year 2001 when he was still in service yet now he has retired.

The only relief which he can get is the vindication of his honour.

Learned counsel for the respondents have not brought on record any material to contradict the assertion that this was the solitary instance of the adverse remarks given to the petitioner. If that be so then there is certainly some weight in the argument of the petitioner; to-wit, these kinds of generalized and sweeping remarks by themselves lose their credibility if it is shown that they were recorded only once during a long service period of 30 years.

Keeping the entirety of circumstances in mind and the fact that the petitioner states that apart from the vindication of his honour he is not seeking any other relief and without commenting on the allegations of malafide against the respondent No.2, I deem it appropriate in the interest of justice to allow this petition. Ordered accordingly. Consequently, all the adverse remarks recorded in the Annual Confidential Reports for the period from 26.07.1991 to 31.03.1992 are expunged.

08.07.2015

Pooja Sharma-I

**(AJAY TEWARI)
JUDGE**