

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no.3290 of 2013 (O&M)

Date of Decision : 05.02.2015

Amarbir Singh

....Petitioners

Versus

State of Punjab and others

...Respondents

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 : Mr.G.S.Bal, Sr. Advocate with
Mr. A.D.S.Bal , Advocate for the petitioner

Ms. Monica Chibber Sharma, DAG, Punjab

MAHESH GROVER, J.

The petitioner's grievance is directed against his being ignored for promotion on the premise that he did not meet the requisite bench mark in view of adverse report for the period 2007-08, recorded against him.

Learned counsel for the petitioner while relying on the ratio of judgment on Hon'ble Supreme Court rendered in **Dev Dutt vs. Union of India** 2008(8) SCC 725 has stated that this report could not be taken against him considering its non-communication which fact has been strenuously denied by the respondents with reference to Annexure R-5 to state that this report was communicated to him.

Learned counsel for the petitioner with equal vehemence disputes this fact and states that it was never received by him as Annexure

R-5 does not bear his signatures at all. Apart from this it was contended that reporting officer found the work of the petitioner to be 'good' or 'very good' whereas the reviewing officer converted the good remarks to 'below average' thereby subverting the status of good report to that of below average. There was however no doubt expressed about the integrity and honesty of the petitioner by both the officers.

Learned counsel for the petitioner contends that information received under the RTI would also indicate that Sh.H.S.Sokhi, the Reviewing Officer stood retired on 31.5.2008 and the comments were recorded on 10.6.2008. It is thus pleaded that such a report holds no value in the eyes of law and necessarily has to be discarded while considering the case of the petitioner for promotion.

Upon consideration and perusal of the controversy I am of the view that Annexure P-2 could not have been construed against the petitioner for two reasons; i) the reporting officer who was empowered in law to report on the working of the petitioner found him to be good or very good in all spheres indicated in the report while the reviewing officer without affording any reasons for disagreement converted the report into a below average one and secondly remarks were recorded by reviewing authority when he stood retired. Evidently, an incumbent who had superannuated loses his authority to record any official remarks. Such a report by the reviewing officer would thus have no value in the eyes of law and would have to be discarded from the consideration altogether. Thus the comments of the reviewing officer having no force in the eyes of law would stand expunged from the report. The respondents are directed to consider the case of the petitioner for promotion in view of what has been stated above and in

case the petitioner is found eligible for promotion the same shall be granted to him with effect from the date when he was entitled to it with all consequential benefits.

Petition stands allowed.

February 05, 2015
rekha

(MAHESH GROVER)
JUDGE