

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16739 of 1994 (O&M)

Date of Decision: 21.01.2016

Gulzar Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. N.K. Nagar, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. Mr Manuja has produced the original record together with a chart containing the gist of ACRs of the entire period of service spanning 1983-84 to 2010-11. A perusal of the record shows that the petitioner was graded 'Average' in 1989-90 and in 1990-91. In 1990-91 adverse remarks were recorded doubting his integrity but the same was not conveyed. Therefore, they cannot be read against the petitioner. However, in the year 1993-94 he was graded below 'Average' with integrity doubtful remarks on work and conduct. He challenged those remarks and sought their expunction but the request was declined by the competent authority. Therefore, the remarks regarding integrity doubtful in the year 1993-94 stand against the petitioner and to his detriment for purposes of further promotion in view of the instructions dated October 22, 1996 issued by the Punjab Government

taking a policy decision that an officer known to be dishonest will not be promoted.

2. The claim of the petitioner for promotion w.e.f. 1991-92 is not tenable since the vacancy was not consumed by the senior who refused offer of promotion for personal reasons. In fact the junior was promoted on April 04, 1996 without any indication in the promotion order whether it was with retrospective effect, that is, from the date when the vacancy occurred in the promotion cadre. The order promoting the junior would thus have to be treated with immediate effect from the date of the order and, therefore, the petitioner cannot build his case on the foundation and for the reason that he deserves promotion from the date when his junior was promoted because on that date, the remarks of integrity doubtful had been recorded. The appeal against recording of integrity doubtful remarks was turned down on November 13, 1997 affirming the opinion of the reporting officer and, therefore, the rejection of the appeal would relate back to the date of recording and conveying the adverse ACRs to him for the period 1993-94 when the petitioner would fall in the eclipse of the integrity doubtful.

3. No ground is made out to interfere.

4. The petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

21.01.2016
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