

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.13008 of 2015
Date of Decision:- 16.05.2016

Jagat Singh Head Constable

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Tara Chand Dhanwal, Advocate, for the petitioner.

Mr. Keshav Gupta, Assistant Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioner is seeking quashing of adverse remarks recorded in his Annual Confidential Report for the period from 08.09.2008 to 31.03.2009, which was conveyed to him on 02.06.2009 (Annexure P-1) and further prayer to quash order dated 31.03.2014 (Annexure P-10), vide which the representation filed by him against the adverse remarks has been rejected.

Vide order dated 05.09.2014 (Annexure P-11), the adverse remarks recorded in the ACR of EHC Jagbir Singh, for the period from 08.09.2008 to 31.03.2009, have been expunged. The adverse remarks had been recorded in his ACR were made on a regular departmental enquiry initiated vide SP/Hisar office order No.9525-26 dated 06.03.2009. The above said departmental enquiry was filed by SP/Hisar vide office order No.2115-20/Steno dated 11.09.2009 and this was a ground to expunge the remarks and thereafter, ACR was upgraded as 'good'.

The parties are not in dispute that the petitioner was also charge-sheeted along with EHC Jagbir Singh, vide order SP/Hisar office order No.9525-26 dated 06.03.2009, by the Superintendent of Police, Hisar. Vide final report dated 13.06.2009 (Annexure P-2), submitted by the inquiry officer, the charges levelled against petitioner Jagat Singh and other official Jagbir Singh were not proved, Thereafter, respondent No.3 was not satisfied with the inquiry report (Annexure P-2) and issued a show cause notice to the petitioner enclosing disagreement note-cum-finding report dated 22.07.2009 (Annexure P-3). Consequently, respondent No.3 cancelled the disagreement note and filed the departmental inquiry against the petitioner and other official Jagbir Singh. At the same time, an adverse entry was made in the ACR of the petitioner with the general remarks that 'A dishonest Head Constable'.

The grievance of the petitioner is that vide order dated 05.09.2014 (Annexure P-11) the adverse remarks recorded against Jagbir Singh, have been expunged, however, in the case of the petitioner, vide order dated 01.04.2014 (Annexure P-10), his representation has been rejected. A perusal of the order (Annexure P-10) shows that the ground for rejection of the representation is that during the preliminary enquiry the complainant/victim supported the allegations. However, later on during the departmental enquiry, the complainant turned hostile, but the senior serving officer, Puran Chand Panwar, HPS, the then DSP/City Hisar, who had conducted the P.E., stood by his statement and in this background the allegations of demand of bribes by the petitioner stood proved and this was sufficient for making adverse entry in his ACR.

Apart from the departmental enquiry, a show-cause notice has been issued on 22.07.2009 (Annexure P-3), by the Senior Superintendent of

Police, Hisar and for proposing the punishment of dismissal from service. After considering the reply filed by the petitioner, the competent authority filed the departmental enquiry initiated against both the employees i.e. petitioner Jagat Singh and Jagbir Singh. Consequently, the petitioner was exonerated from the departmental enquiry.

Keeping in view that the adverse ACR had been recorded on the basis of enquiry proceedings initiated against the petitioner, in which, he had already been exonerated, the said adverse remarks should not reflect in the ACR of that particular year.

In view of above-said facts, the present writ petition is allowed. Orders (Annexures P-1 and P-10) are set aside. The respondents are directed to expunge the adverse remarks mentioned in the ACR of the petitioner by upgrading the same as good and shall further grant him all the consequential benefits.

May 16, 2016
naresh.k

(RITU BAHRI)
JUDGE