

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP-21526-2016

Date of decision : 07.07.2017

EASI, Harish Kumar

... Petitioner

Versus

State of Hayana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.R.K.Malik, Senior Advocate
with Mr.Tejpai Singh Dhull, Advocate
for the petitioner.

Mr.R.K.Doon, AAG, Haryana.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner seeks expunction of the adverse remarks recorded in his ACR for the period 01.04.2015 to 16.09.2015 and further, that the order dated 29.09.2016 by which his representation against these adverse remarks has been dismissed, be also quashed and finally, that the order dated 27.08.2016 by which he has been ordered to be compulsorily retired be quashed and he be reinstated in service with consequential benefits.

Mr.Malik, learned senior counsel appearing for the petitioner, has pointed to the fact that for the period 01.04.2002 till 21.12.2015, the petitioners' ACRs have always been recorded as either outstanding, very good or good, with remarks of his being a hard worker, honest, faithful and sincere etc., except for the periods 01.04.2015 to 16.09.2015 and

27.12.2015 to 31.03.2016.

He submits that both these adverse ACRs were actually based upon the fact that disciplinary proceedings had been initiated against the petitioner for alleged irregularities in the purchase of certain items amounting to a discrepancy of a few 100 rupees or so. Eventually he was awarded a punishment of censure in the said inquiry proceedings, but vide an order of the same authority that had refused to expunge the remarks qua the period 01.04.2015 to 16.09.2015, the remarks for the period 20.12.2015 to 31.03.2016 were actually expunged, as is obvious from a perusal of the communication dated 21.11.2016, Annexure P15.

Learned senior counsel further points to the fact that as a matter of fact, the adverse remarks for the aforesaid two periods would show that they were actually of an identical nature, except to the extent that for the period 01.04.2015 to 16.09.2015, remarks on integrity, reliability and general remarks are added, which are not there in the report for the period 22.12.2015 to 31.03.2016.

It is reiterated by the learned senior counsel that the entire period is actually “covered” by the enquiry then pending against the petitioner.

On specific query to learned State counsel, he on the basis of the written statement filed by the Superintendent of Police, Hisar, submits that there was only one inquiry pending against the petitioner and as such the contention to that effect of learned senior counsel is not incorrect, though he has pointed to the fact that in the written statement, the ACR for the period 22.12.2015 to 31.03.2016 has also been mentioned as the reason for the petitioner being eventually compulsorily retired from service.

The written statement is seen to be dated 17.11.2016, whereas the order Annexure P15, by which the aforesaid remarks were expunged, is dated 21.11.2016, i.e. 4 days later.

Mr.Malik further points to the order of the Superintendent of Police dated 08.08.2016, Annexure P10, wherein it has been recorded as follows:-

“I have gone through the statements of Pws, Dws and other documents available in this departmental enquiry file. He has also been heard in person by the undersigned on 04.08.2016 and found that when he was posted as Care-Taker in the Range Office, Hisar some/minor irregularities had been found in the Govt. bills due to off season, discount and tax etc.”

The contention therefore is that once the irregularities were found to be of a minor nature and actually due to government bills pertaining to different seasons, discounts and taxes etc., nothing could actually be attributed to the petitioner by which his entire careers' record would be washed out within a period of 4 ½ months, especially as the subsequent ACR was upgraded to “Good” vide the order dated 21.11.2016, Annexure P15.

Keeping in view the entire circumstances above and the fact that on the basis of the same inquiry report, the adverse remarks for the period 22.12.2015 to 31.03.2016 have been expunged and even as regards irregularities found to have been committed, for which the petitioner was imposed a punishment of censure, it was stated by the Superintendent of Police that they were actually minor irregularities on account of government

Accordingly, this writ petition is allowed and the adverse remarks recorded in the petitioners' ACR for the period 01.04.2015 to 16.09.2015 are ordered to be expunged, and his ACR upgraded suitably by the competent authority.

In view of the above, since there is no adverse remark now pending after this order, against the petitioner, with his entire service career as per the rest of the reports shown to be outstanding / very good / good, as already noticed, the order of compulsory retirement is also hereby quashed and the petitioner is ordered to be reinstated in service with all consequential benefits, within a period of three months from the date of receipt of a certified copy of this order.

No order as to costs.

(AMOL RATTAN SINGH)
JUDGE

July 07, 2017.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No