

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

**CWP No. 8286 of 2013
Date of decision: 24.05.2017**

Kuldeep Singh Rana

...Petitioner

Vs.

Haryana State Warehousing Corporation & others ...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. S. K. Redhu, Advocate
for the petitioner.

Mr. Ashwani Talwar, Advocate
for respondents No. 1, 2 and 4.

None for respondent No. 3.

P.B. BAJANTHRI, J. (Oral)

The petitioner has made following prayers in the present writ petition:

“..... A writ in the nature of Certiorari be issued quashing the adverse remarks conveyed vide letter No. HWC/Admn/EA-2/2003/44634 dated 16.09.2003 (Annexure P-4), Enquiry report dated 05.06.2006 (Annexure P-8), Order No. HWC/Admn/EA-1/09/12291 dated 10.03.2009 (Annexure P-14) vide which penalty of simple warning awarded, Order No. HWC/Admn/EA-8/2009/12309 dated 10.03.2009 (Annexure P-15) dated 10.03.2009 vide which representation against adverse remarks rejected, Order No. HSWC/Admn/EA-1/2013/2055-2190 dated 16.01.2013 (Annexure P-16) vide which notice for 3 months for retirement from service issued and letter No. HSWC/Admn/EA-

1/2013/11 dated 05.04.2013 (Annexure P-18) vide which representation dated 12.02.2013 rejected and further a direction may kindly be issued to the respondents to retain the petitioner in service till the date of superannuation;

During the pendency of present petition the operation of impugned order dated 16.01.2013 (P-16) may kindly be stayed in the interest of justice.

.....”

Petitioner's ACR for the year 2002-03 was written on 16.09.2003 and the same was communicated to the petitioner on 26.09.2003. The petitioner submitted a representation against the ACR for the period of 2002-03 in the year 2008 which was highly belated. The same was rejected on 10.03.2009 (*Annexure P-15*). Petitioner's name was considered for retiring him compulsorily with reference to that he is attaining the age of 55 year as on 19.09.2012. In this regard, procedure, laid down in *Rule 5.32 A(C) of the Punjab Civil Service Rules, Volume-II* and *Rule 3.26 (d) of the Punjab Civil Service Rules, Volume-I, Part-I*, has been complied with on 16.01.2013 (*Annexure P-16*). Thereafter, formal order has been passed on 05.04.2013. The petitioner was subjected to disciplinary proceedings arising out of recording of ACR in which charges, levelled against him, were proved. One of the charges against the petitioner is that he has temporarily misappropriated the respondents' money which was sought to be recovered from him while concluding the disciplinary proceedings. Further, simple warning has been issued to the petitioner. In view of the fact and circumstances that petitioner's entire service record has been

taken into consideration by a Committee consisting three Officers on 17.12.2012, one of the service record of the petitioner was found to be 'doubtful integrity and reputation for honesty'. In so far as the 'reputation for honesty' is concerned, it was the subject matter of the disciplinary proceedings to the extent that petitioner had temporarily misappropriated the respondents' money and to that extent, recovery has been ordered. Perusal of the Committee's decision dated 17.12.2012 and the fact that petitioner was imposed penalty of simple warning read with the order of recovery. Hence, this petition.

Learned counsel for the petitioner vehemently submitted that petitioner had submitted a representation against the proposal for retiring the petitioner compulsorily and that the contentions of the petitioner, in the representation, has not been taken into consideration while passing order dated 05.04.2013 and it is a non-speaking order. Therefore, it is liable to be set aside.

Per contra, learned counsel for respondents No. 1, 2 and 4 submitted that perusal of the recording by the committee reveals that petitioner's record relating to 'doubtful integrity and reputation for honesty' has been taken into consideration. That apart, petitioner was subjected to disciplinary proceedings in which he has been penalized by imposing penalty of simple warning and recovery of misappropriated amount. In view of this, petitioner has not made out a case so as to interfere in the orders which are under challenge in the present writ petition.

Heard learned counsel for the parties and have perused the

record of the case.

Having regard to the consideration of petitioner's record by the committee on 17.12.2012, it is evident that each and every service record of the petitioner has been taken into consideration read with 'doubtful integrity and reputation for honesty'. Moreover, petitioner has been punished in a departmental enquiry in respect of temporary misappropriation of respondents' money to that extent recovery has been ordered. Therefore, there is no infirmity in the order of compulsory retirement as well as rejection of the petitioner's representation against ACR since the representation had been considered in detail. That apart, there is an inordinate delay of five years in filing the representation against the ACR for the year 2002-03.

Hence, the petitioner has not made out his case so as to interfere in the orders which have been challenged by way of present writ petition.

Accordingly, the present writ petition is dismissed.

No order as to costs.

May 24, 2017

Ansari

**(P.B. BAJANTHRI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No