

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

**CWP No.2660 of 2017 (O&M)
Date of decision : February 14, 2017**

Harbhajan Lal

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ravi Sharma, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The present petition has been filed for quashing of the order dated 08.08.2016 (Annexure P-14) passed by respondent No.1-Addl. Chief Secretary, Government of Punjab, Department of Home Affairs, whereby the representation of the petitioner has been rejected.

The petitioner, who was earlier working as Inspector (later on promoted as DSP) in Punjab Police, claims that certain adverse remarks were recorded in his ACR for the period 01.08.1988 to 31.03.1989 by the then Senior Superintendent of Police, Ludhiana. His representation regarding his promotion to the post of DSP w.e.f. 23.11.1989 was rejected by the Director General of Police, Punjab in the year 1995. He filed CWP No.12733 of 1995, which was decided by this Court on 18.02.2016, whereby the previous orders were set aside and the State was directed to

pass a speaking order regarding the adverse remarks recorded in the ACR for the period 01.08.1988 to 31.03.1989 and the denial of promotion.

Now, in pursuant to the said direction, the impugned order dated 08.08.2016 (Annexure P-14) has been passed by the Addl. Chief Secretary, Government of Punjab, Department of Home Affairs.

It comes out that the petitioner has already retired from service in the year 2008 as Deputy Superintendent of Police. In the ACR for the period 01.08.1988 to 31.03.1989 (Annexure P-5), the following adverse remarks were recorded:

1	Honesty	Doubtful
2	Moral Courage and readiness expose the malpractices of subordinates	None
3	Preventive and detective ability	Below average
4	Reliability	Not fully reliable
5	Defects, if any	is an accused in a corruption case registered against him

On a representation made by the petitioner against those remarks, the Director General of Police, Punjab, expunged the remarks at column Nos. (iv) and (v). However, the adverse remarks recorded at column Nos. (i) to (iii) were maintained. Consequently, the petitioner was not promoted to the higher post i.e. Deputy Superintendent of Police. However, ultimately, he was promoted as Deputy Superintendent of Police on 15.02.2001.

Heard.

Learned counsel for the petitioner has contended that the then Senior Superintendent of Police, Ludhiana had asked the petitioner to eliminate certain terrorists, which he did not do and that therefore, the then Senior Superintendent of Police, Ludhiana was annoyed with him and

recorded adverse remarks. It has also been argued that the Director General of Police kept the representation of the petitioner pending for five years and did not apply his mind. It is further stated that the ACR was recorded on the basis of the warning dated 18.01.1989 (Annexure P-2), in which it was alleged that one Balbir Singh, who was opium smuggler for post several years disclosed to the police that he had been paying monthly bribe of ₹10,000/- to the petitioner when he was posted as SHO, P.S. Dakha.

It has further been argued that the representation (Annexure P-13) was not fully considered and discussed in the impugned order.

After hearing learned counsel for the petitioner and going through the impugned order, I am of the view that the allegations are not substantiated by the material on file. The material on file shows that though the representation of the petitioner was decided late but the Director General of Police had applied his mind on the facts of the case and it is for this reason that the adverse remarks in two columns were expunged, whereas in the three columns, the adverse remarks were maintained. In this way, in the other column of Honesty the remark was recorded as 'doubtful'. In the column of Moral Courage and readiness to expose the malpractices of subordinates was recorded as 'None' and the column 'reliability' was recorded as 'Not fully reliable'.

I am of the view that the controlling authority having seen the working of the petitioner had observed his conduct. It is not possible that in all the cases, the material is available with the superior authorities. It is also noticed that those were the days of terrorism. Therefore, the public was not coming forward. It also comes out that the department was not vindictive to

the petitioner. Have it been so, the petitioner would not have been promoted as Deputy Superintendent of Police on 15.02.2001. As a result of the adverse ACR, his promotion was only delayed, whereas in my view, if the integrity was recorded as doubtful, it was a fit case for pre-mature retirement and taking harsh departmental action. The department has already taken a lenient view. The petitioner was given promotion though late. There is absolutely no material to interfere in the impugned adverse remarks recorded in the ACR for the period 01.08.1988 to 31.03.1989 and delay in the promotion. In the impugned order, every aspect of the case has been considered and discussed. Thus, there is no ground to interfere in the same.

As such, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

February 14, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No