

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11549 of 2012

Date of Decision: 25.10.2018

Sub Inspector Ram Kishore

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. R.K. Malik, Sr. Advocate,
with Mr. Sandeep Dhull, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. An affidavit has been filed on the direction of this Court by the Deputy Superintendent of Police, GRP, Headquarters, Haryana Ambala Cantt placing on record Annex R-1 being the comments of the reporting officer dated August 10, 2009 on his adverse remarks recorded in the ACR of the petitioner for the period April 01, 2008 to November 20, 2008. The petitioner was reported to be a dishonest officer due to dereliction in duty and registration of criminal case against him in FIR No.89 dated October 03, 2008 under Sections 119, 213, 342, 348, 370, 120-B, IPC and Sections 7/8/49/88 of the Prevention of Corruption Act, 1988 upon which grounds the petitioner was dismissed from service by invoking Article 311(2) (b) of the Constitution. However, the order of dismissal was set aside by this Court by a judgment and order, a copy of which is annexed as P-5. A direction was issued to the respondents to conduct an inquiry. As a result of the inquiry, the petitioner was issued minor punishment of warning. He was

held to be guilty of negligence. There was a finding recorded that the petitioner had acted in a negligent manner in not recording entry in Daily Diary Report in a complaint made in the Police Station where the petitioner was posted as Station House Officer.

2. The present petition has been filed against the adverse remarks in the ACRs for the aforesaid period. On a perusal of the report of the comments of the reporting officer, produced in the affidavit it is clear that adverse ACR was recorded as a result of the FIR and for dereliction of duty. The criminal case on the same set of charges as in the enquiry resulted in an acquittal. The petitioner was declared innocent of the charge. Accordingly, the base of the adverse remarks has been removed. As far as negligence is concerned the punishing authority has inflicted minor penalty of warning.

3. Mr. Malik has done his homework and relies on a decision of this Court in Kirpal Singh Officiating Assistant Sub-Inspector of Police v. The State of Punjab and others, 1969 SLR 120 to contend that High Court can quash adverse remarks in confidential report when based on criminal charge in which the officer is acquitted subsequently which would remove the base of adverse remarks to the extent of the charge in the criminal case. The other remarks by way of assessment of work and conduct made in the columns under consideration may remain, which have nothing to do with the registration of the criminal case or the act of negligence. Nevertheless, the comments regarding the doubtful integrity of the petitioner would perish with the reasons recorded by the trial Court in acquitting the petitioner. That apart, the petitioner has been subjected to disciplinary proceedings which stand outside the criminal case but for which misconduct

he has been administered a minor doze of penalty of warning. Mr. Malik also places reliance on the Division Bench of this Court in Ranbir Singh v. State of Haryana and others, 2009 (2) RSJ 485 in a case of expunction of adverse remarks leading to compulsory retirement. The only incident of pendency of criminal case in *Ranbir Singh* had formed the solitary basis both for the adverse entry as well as for the order of compulsory retirement. The Court held that non-consideration of acquittal in the criminal case and exoneration of the charges in the departmental proceedings vitiates the ultimate decision. In this view, the Court expunged the adverse remarks in the ACRs and set aside the order of compulsory retirement. The distinguishing feature in *Ranbir Singh* case and the present one is that the petitioner was not exonerated of the charge of negligence in the departmental proceedings.

4. The Superintendent of Police, Railways, Haryana, Ambala Cantt as the punishing authority in his order dated December 28, 2011 held on the evidence adduced in the enquiry that corruption charges levelled against the petitioner during the departmental inquiry have not been proved in the investigation conducted by the Investigating Officer which verdict was agreed with by the Inquiry Officer. He upheld the report of the Inquiry Officer to the extent of corruption charges and dropped them but agreed with the report to the extent that the petitioner was guilty on the ground that he did not make an entry in the Daily Diary Report when he was obliged to. The punishing authority could not find any material proof in the departmental inquiry of the reasons which led to dismissal of the petitioner. However, the dismissal is non-existent since it was set aside by the High

Court with a direction to hold an departmental inquiry. Ultimately, what is left of the criminal and departmental proceedings is only that the petitioner was negligent in the performance of duties in his failure to make an entry in the DDR.

5. In view of the above, upon hearing the parties I have reached to the conclusion that the remarks doubting integrity of the petitioner can no longer hold good.

6. Therefore, the petition is allowed to the extent of adverse remarks entered in column No.1 on 'Honesty'. Those remarks are ordered to be expunged from the record. The fallout of expunging the adverse remarks doubting honesty would be for the petitioner to take up with the department separately. For which the petitioner is at liberty to make a representation to the authorities for them to consider any consequential relief that he may entitled to, as a result of passing of this order.

(RAJIV NARAIN RAINA)
JUDGE

25.10.2018
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Whether speaking/reasoned *Yes*

Whether reportable *No*