

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 11220 of 2016

Date of decision : October 11, 2018

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Ramvir Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Arun Jindal, Advocate for the petitioner.

Ms. Palika Monga, DAG, Haryana.

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RITU BAHRI, J.

The petitioner is seeking writ of certiorari for setting aside the adverse remarks of 'un-reliable' recorded in the ACR for the period 17.09.2013 to 31.3.2014 by respondent no.3-Superintendent of Police, Palwal (Haryana) and for setting aside the order dated 02.12.2014 (Annexure P-3) passed by respondent no.2-Inspector General of Police, South Range, Rewari (Haryana) on the appeal/representation dated 07.1.2014 (Annexure P-2) of the petitioner against the adverse remarks.

Petitioner joined Haryana Police on 19.9.1989 as Constable.

Vide letter dated 14.5.2014 (Annexure P-1) issued by the Superintendent of

Police, Palwal, adverse remarks as 'unreliable' were conveyed to the petitioner made out while posted at Anti Mining Naka, Punhana on 15.1.2014. Counsel for the petitioner has argued that the petitioner was posted at Police Station Camp, Palwal and not Naka, Punhana and the ACRs have been wrongly recorded treating him that he was working in Anti Naka Punhana on 15.1.2014. Counsel for the petitioner has further referred to the information supplied by the RTI (Annexure P-5) which clarifies that on 15.1.2014, the petitioner was posted in Anti Mining Naka, Village Asawar Railway Station. The petitioner filed an Appeal dated 07.11.2014 (Annexure P-2) before the IGP (South Range), Rewari for expunging the entry of adverse remarks in the ACR of the petitioner as conveyed vide letter dated 14.5.2014. Respondent no.2-Inspector General of Police, South Range, Rewari (Haryana) vide order dated 2.12.2014 (Annexure P-3) rejected the appeal/representation being time barred as the same was made after the period of three months from the date of communication of the adverse remarks. The above said order was conveyed to the petitioner by the Superintendent of Police, Palwal-respondent no.3 on 22.12.2014. Hence the present petition.

In the written statement, filed on behalf of respondents no. 1 to 3, a stand has been taken that inadvertently, the station is wrongly mentioned as Punhana in letter dated 14.5.2014 (Annexure P-1) and it should have been written as Asawat Fatak. It was further submitted that the petitioner was posted at Anti Mining Naka Asawat Fatak from 15.1.2014 to 21.3.2014. In preliminary submissions, it has been submitted that while the

petitioner was posted at Police Post Gadpuri, P/SI Manjeet Incharge Police Post Gadpuri had submitted a report dated 26.12.2013 recommending therein to initiate a disciplinary action against HC Kanwarjeet No. 529/PWL, the then, MHC as some Arms & Ammunition were found lost and he had not handed over the charge of record as well as Arms & Ammunition of Police Post, Gadpuri Palwal. Therefore, EASI Dharambir No.14/PWL posted as Kot Incharge, Palwal had submitted a report that Arms & Ammunition of Police Post Gadpuri was found correct as per record. EHC Kasam Khan No.336/PWL has recorded a wrong DDE No.7 dated 05.12.2013 at 12:10 P.M that the charge of 60 rounds of 9MM and 10 rounds of 303 was not given by the then MHC namely HC Kanwarjeet No.529/PWL. The petitioner has also recorded a wrong DDE no. 12 dated 25.12.2013 at 12:40 P.M that he visited home of HC Kanwarjeet No.529/PWL at Ballabgarh in connection with the missing Arms and Ammunition where wife of HC Kanwarjeet No.529/PWL has stated that her husband has intimated that the aforesaid Arms & Ammunition were kept in the bag of the room situated nearby of MHC room under the Takhat. Sh. Jaiveer Singh Rathi, the then DSP/Hq. Palwal scrutinized the Police file of case FIR No.68 dated 31.1.2014 which was registered on the above said episode under Section 409 IPC Police Station, Sadal Palwal reveals that during the investigation of this case by ASI Om Parkash, CIA Staff Palwal, Constable Mahesh Kumar No.1141/PWL posted in Police Post, Gadpuri. the then DSP, Hqrs. Palwal held guilt on the report dated 24.2.2014. For this misconduct, a joint regular departmental enquiry was ordered against

him and co-defaulters by the then Superintendent of Police, Palwal vide order No.1420-24 dated 26.2.2014 and the then Superintendent of Police, Palwal who was reporting officer of the Annual Confidential Report of the petitioner for the period from 17.9.2013 to 31.3.2014 after assessment of the work and conduct of the petitioner gave adverse remarks “unreliable” in the Annual Confidential Report which were conveyed to the petitioner on 23.5.2014. In the departmental enquiry, as per the report dated 06.08.2014, the petitioner was exonerated vide order dated 7.8.2014.

After hearing counsel for the parties and going through the contents of the writ petition, I am of the opinion that the present writ petition deserves to be dismissed. The facts which are not in dispute are that on the basis of a false complaint, FIR No.68 was registered under Section 409 IPC with the allegation that Head Constable Kanwarjeet had not handed over the charge of record as well as Arms & Ammunition of police post, Gadpuri Palwal. The petitioner visited the house of HC Kanwarjeet on 25.12.2013 at 12:40 P.M when wife of Kanwarjeet was alone at home and recorded a statement that her husband kept arms and ammunition in a bag in a room under the Takhat. Sh. Jaiveer Singh Rathi scrutinized the police file of case FIR No.68 and found the report against Head Constable Kanwarjeet to be false and in this backdrop, regular departmental enquiry was initiated. Even though the petitioner has been exonerated in the departmental enquiry, however, that cannot taken a ground to expunge the adverse ACR.

In the present case, the adverse remarks recorded in the ACR of

the petitioner is not liable to be quashed as it was based on evidence. The conduct of the petitioner was sufficient to record adverse remarks in the ACR and the representation against the adverse remarks recorded in the ACR has been rightly dismissed on 12.12.2014 (P-3). Moreover, in a judgment passed by a Co-ordinate Bench of this Court in *The State of Haryana and others vs. Mohinder Singh 2012 (2) SLR 710*, It was held that recording of Annual Confidential Reports would be in pursuance to the subjective satisfaction of the Reporting Officer. Normally Court would not interfere with such subjective satisfaction of the authority. However, judicial scrutiny in such matters would be open where it is a case of bias or patent irregularities in recording the adverse remarks or where it is based on no material whatsoever.

Having regard to the aforesaid, present writ petition is dismissed

October 11, 2018
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No