

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.211

CWP-22798-2014

Date of decision : 18.05.2018

Viveka Nand Jha

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Anurag Goyal, Advocate, for the petitioner.

Mr. Rajesh Gaur, AAG, Haryana.

Mr. Jasbir Singh Ahlawat, Advocate, for respondent No.4.

SUDHIR MITTAL, J. (Oral)

The petitioner was appointed as Lecturer in Ceramic Engineering on regular basis, vide order dated 13.09.2004. Adverse remarks were recorded in his ACR for the years 2009-2010 and 2010-2011. As a result of the said adverse remarks, the petitioner was denied ACP as well as promotion to the post of Senior Lecturer. The present writ petition was filed challenging the ACRs for the period 2009-2010, 2010-2011 as well as denial of ACP and promotion.

On 02.03.2015, it was recorded as follows:-

‘Learned counsel for the petitioner fairly submits that the challenge in the writ petition may be confined to the ACR pertaining to the year 2009-2010. In respect of ACR pertaining to the year 2010-2011, which has been communicated to him on 12.02.2013, he withdraws his claim with liberty to make appropriate representation by availing the appropriate remedy in accordance with law.

In view of the prayer made by the learned counsel for the petitioner liberty is granted to challenge the communication of ACR pertaining to the year 2010-2011.’

Thus, it is clear that the petition is now confined to the challenge to the ACR for the year 2009-2010 and consequential orders.

One of the ground for challenging the said ACR is that it was initiated by the Principal of the College, who is also the Reviewing Authority. The Reporting Authority i.e. the person, who initiates the ACR, is the Head of the Department or officiating Head of the Department. This in itself vitiates the said ACR as the Reviewing Officer could not have acted as the Reporting Officer.

Learned State counsel is not able to answer this argument.

In view of the above, it stands proved that ACR for the year 2009-2010 was initiated by an authority, who was not competent to do so. Thus, the ACR is vitiated and is accordingly quashed. As a result thereof, order dated 09.01.2014 (Annexure P-44), rejecting the demand of the petitioner for promotion, is also liable to be quashed as the reason for rejecting the demand of the petitioner mentioned therein, is the adverse remarks, recorded in the ACR for the year 2009-2010. Order dated 09.08.2012 (Annexure P-29), vide which ACP was denied to the petitioner, is also quashed for the same reason.

In view of the above, the writ petition is partially allowed. ACR for the year 2009-2010 may be initiated afresh by the competent authority and consequential orders be passed in accordance with law.

(SUDHIR MITTAL)
JUDGE

18.05.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No