

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

CWP No. 4679-2017

Date of decision : 11.09.2018

Sub Inspector Surender Singh

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.D. Yadav, Advocate
for the petitioner.

Mr. Kiran Pal Singh, A.A.G. Haryana

RITU BAHRI, J. (Oral)

The present petition under Article 226/227 of the Constitution of India is for quashing of order dated 28.06.2016 (P-2) and order dated 24.01.2017 (P-4).

Petitioner is working as Sub Inspector in the Haryana Police and performing his duties. However, vide order dated 23.06.2016, stoppage of four future annual increments with permanent effect was imposed upon the petitioner by the Deputy Commissioner of Police, Headquarter Gurugram on the basis of departmental enquiry conducted against the petitioner on the allegations that when he was posted as Investigating Officer in Police Station, Sadar East Zone Gurugram on 17.09.2015 then he did not take any action on the complaint made by Smt. Krishan despite verbal instruction given by Inspector Vijay Singh SHO, PS Sadar Gurugram.

The petitioner filed appeal against order dated 23.06.2016 and the Appellate Authority vide order dated 06.09.2016 partly accepted the

appeal of the petitioner by reducing the punishment to stoppage of two future annual increments with permanent effect.

A revision petition was then filed by the petitioner against order dated 23.06.2016 and 06.09.2016, which was also partly accepted by respondent No. 2 and punishment was reduced to censure vide order dated 22.12.2016 (Annexure P-1).

The adverse remark was made in the ACR of the petitioner for the period 04.12.2015 to 31.03.2016 and petitioner was shown unreliable, vide order dated 28.06.2016 (Annexure P-2).

In this regard, the petitioner gave a representation (Annexure P-3) and the same was rejected by respondent No. 3 on the ground of delay, vide order dated 24.01.2017 (Annexure P-4).

On notice, a reply has been filed on behalf of respondent Nos. 1 to 3 stating therein that the work and conduct of the petitioner was not found satisfactory by the reporting authority during the reporting period 04.12.2015 to 31.03.2016, as such adverse remarks in the ACR of the petitioner on the basis of his overall performance has been recorded by the reporting officer. The same were conveyed to him vide letter dated 28.06.2016. The reporting authority has recommended for punishment of censure due to negligence in crime against women and for this, a regular departmental enquiry was initiated vide order dated 17.09.2015 on the complaint made by Smrt. Krishna Devi.

Learned counsel for the petitioner has argued that once the revision petition filed by the petitioner against order dated 23.06.2016 and 06.09.2016 was partly accepted by respondent No. 2 by reducing the

punishment to censure vide order dated 22.12.2016, thereafter, the representation of the petitioner should not have been dismissed only on the ground of delay. There is nothing in evidence with the respondents in order to give the adverse remarks in the ACR to the effect that the petitioner was unreliable.

On the other hand, learned State counsel has argued that on a complaint made by Ms. Krishna, a regular department enquiry was held against the petitioner, the stoppage of four future annual increments with permanent effect was imposed upon the petitioner, which was further reduced to censure on the appeal/revision petition filed by the petitioner. The ACR of petitioner for the period 04.12.2015 to 31.03.2016 has been rightly reported, as the petitioner was found negligent in case of crime against women.

Heard learned counsel for the parties.

Reference at this stage can be made to a judgment of *Hon'ble the Supreme Court in a case of Sawantastnar Singh v. State of Haryana and others, passed in SLP No. 4103 of 1997, decided on 03.03.1997* wherein it has been held that adverse remarks can only be quashed if it has been found there was no evidence against an employee

However, in the present case, a regular departmental enquiry was initiated against the petitioner and letter dated 28.06.2016 (P-2) is fully explanatory giving reasons for recording the adverse remarks for the impugned period. Prior to the present adverse remarks, the petitioner has also been reported average during the period 01.04.2009 to 31.03.2010. So, there was sufficient evidence against the petitioner to record adverse

remarks in the ACR.

No ground is made out to quash order dated 28.06.2016
(Annexure P-2) and order dated 24.01.2017 (P-4).

Dismissed.

11.09.2018
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No