

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

**CWP No. 4388 of 2011 (O&M)
Date of Decision: 06.09.2019**

Malkiat Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Arora, Advocate,
for the petitioner.

Ms. Anju Arora, Addl. AG Punjab.

JITENDRA CHAUHAN J.

By way of present civil writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has sought quashing of order dated 17.01.2011 (Annexure P-4) vide which the claim of the petitioner for promotion to the post of Principal in PES-II (Group-A cadre) was declined.

The petitioner was appointed as Master on 05.09.1975 in the Department of Education, Punjab. He was promoted as Head Master on 06.04.1995. On 09.01.2006 a complaint was made against him by Dilbagh Singh and Bhupinder Singh. In pursuance thereof, an FIR was registered against him and ultimately, he was acquitted in a case registered under Sections 290 and 510 IPC vide judgment dated 13.03.2009. Thereafter, vide order dated 15.02.2010, respondent No.4, who was junior to the petitioner, was promoted whereas, the claim of the petitioner for promotion was rejected on the ground that as against the bench mark of 12, the petitioner could achieve 10 only.

At the outset, it is contended by the learned counsel for the petitioner that the petitioner was never conveyed any ACR with remarks either 'average', 'good' or 'very good'.

The aforesaid factual position was not be controverted by the learned State counsel.

Heard.

In *Dev Dutt versus Union of India and others (J.T. 2008(7) SC 463)* it was held by Hon'ble the Supreme Court as under:-

“In our opinion, every entry in the A.C.R. of a public servant must be communicated to him within a reasonable period, whether it is a poor, fair, average, good or very good entry. This is because non-communication of such an entry may adversely affect the employee in two ways : (1) Had the entry been communicated to him he would know about the assessment of his work and conduct by his superiors, which would enable him to improve his work in future (2) He would have an opportunity of making a representation against the entry if he feels it is unjustified, and pray for its upgradation.”

In view of the above, without adverting to the merits of the the claim, the present petition is allowed. The order dated 17.01.2011 (Annexure P-4) is hereby set aside. Respondent Nos. 1 to 3 are directed to communicate all the ACRs to the petitioner. On receipt of the ACR, the petitioner is free to make a representation thereagainst, if so advised within eight weeks of the receipt of the ACR. In case such a representation is filed by the petitioner a fresh order be passed as per law.

06.09.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No