

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

**CWP No.19421 of 2019
Date of decision:12.09.2019**

ASI Karambir Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sunil K. Nehra, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Prayer in present writ petition is for quashing of impugned ACR (Annexure P-3) of the petitioner for the period ranging from 22.12.2015 to 03.03.2016 and order dated 23.02.2017 (Annexure P-5) vide which representation submitted by petitioner has been rejected.

Notice of motion.

On asking of Court, Mr. R.K.Doon AAG, Haryana, who is present in Court, accepts notice on behalf of the respondents/State.

However, in first instance, Mr. Sunil Kumar Nehra, learned counsel appearing on behalf of the petitioner confines his prayer for quashing of order dated 23.02.2017 (Annexure P-5) vide which representation for expunging adverse remarks for the period from 22.12.2015 to 31.03.2016, has been rejected on account of the fact that petitioner was accused in FIR reflected in ACR.

Mr. Nehra, Advocate submits that in the aforementioned FIR , vide judgment dated 11.12.2017, petitioner has been acquitted of the alleged commission of offences and against the order dated 19.04.2017 (Annexure P-5A) imposing the punishment of withholding of five increments with cumulative effect and appeal is stated to be pending. There is no provision of rule for submission of second representation, therefore, predicament of petitioner is writ large.

In support of the aforementioned contention, relies upon judgment of Co-ordinate Bench of this Court rendered in **Abhay Singh Vs. State of Haryana and others 2017(1) SCT 642** wherein while noticing non-availment of remedy of second representation but in peculiar circumstances, liberty to file second representation has been accorded.

Mr. R.K.Doon, learned Assistant Advocate General, Haryana submits that second representation is not maintainable but factum of acquittal post rejection of the representation is not in dispute.

I have heard learned counsel for parties, appraised paper book and of view that it is a fit case where representation of petitioner dated 17.08.2016 (Annexure P-4) for recording of adverse remarks in ACR on the ground of registration of FIR is required to be re-visited at the level of Inspector General of Police, Hisar owing to occurrence of subsequent event i.e. acquittal, vide judgment dated 11.12.2017. In such circumstances, petitioner is remediless and paragraphs 13 and 14 of the aforementioned judgment read as under:-

“13. Even though the representation submitted by the petitioner against the adverse remarks has been dismissed by the Commissioner of Police, Faridabad vide order dated 22.9.2014, Annexure P5, but certain developments that have taken thereafter would have a material bearing. In the departmental enquiry that was initiated against the petitioner, the Assistant Commissioner of Police, City Ballabgarh was appointed as Enquiry Officer and who returned findings vide enquiry report dated 29.11.2014 exonerating the petitioner and holding him to be innocent. Such enquiry report has thereafter been accepted and the departmental enquiry initiated against the petitioner has been filed vide order dated 19.12.2014, Annexure P9, passed by the Deputy Commissioner of Police, Headquarters Faridabad. The contents of the order dated 19.12.2014, Annexure P9, are not disputed by the State.

14. Even though a second representation against adverse remarks is not maintainable but in the light of the peculiar circumstances taken note of hereinabove, liberty is granted to the petitioner to file another/second representation against the adverse remarks recorded for the period 29.7.2013 to 3.11.2013. In the eventuality of any such representation being preferred within a period of four weeks from today, the competent/appropriate authority would be obligated to consider the same and to take a final view thereupon on merits

and in accordance with law.”

Keeping in view peculiar facts and circumstances of the case, I am of the view that case of petitioner is squarely covered by the observations extracted above and mine. Accordingly, without expressing on merits of the case, impugned order 23.02.2017 (Annexure P-5) is set aside and matter is remitted to the Inspector General of Police, Hisar-respondent No.3 to decide representation dated 17.08.2016, (Annexure P-4) afresh. The petitioner is at liberty to substitute representation by additional material and as well as judgment dated 11.12.2017, if desire so.

This Court is sanguine of the fact that aforementioned exercise be undertaken within a period of three months from the date of receipt of certified copy of this order.

Writ petition is disposed of with the aforementioned observations.

(AMIT RAWAL)
JUDGE

September 12, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No