

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-10190-2017

Date of decision: 05.03.2020

Jaipal

.....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Aditya Yadav, Advocate
for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

GIRISH AGNIHOTRI, J. (Oral)

1. The present writ petition has been filed by the petitioner-Jaipal *inter alia* with a prayer to quash the adverse remarks recorded in the Annual Confidential Report for the period from 01.04.2012 to 16.10.2012, vide memo dated 27.01.2014 (Annexure P-2).
2. Learned counsel for the petitioner, on the basis of pleadings in the writ petition, submits that perusal of memo dated 27.01.2014 shows that adverse remarks were primarily on account of a departmental enquiry initiated, wherein, vide order dated 28.06.2012, two annual increments were stopped. This also finds mention in Column against General remarks in the aforesaid memo. The petitioner submits that thereafter, the petitioner filed CWP-8815-2015 titled as EASI Jaipal vs. State of Haryana and others, which was disposed of on 06.05.2015 with a direction to the Appellate

Authority to decide the appeal within a period of three months. The said appeal was thereafter decided vide order dated 23.11.2015 and the punishment of stoppage of two future increments with permanent effect was held to be disproportionately harsh. Accordingly, the Appellate Authority i.e. Inspector General of Police, Hisar Range, Hisar, vide order dated 23.11.2015, reduced the punishment to only censure.

3. After passing of the order dated 23.11.2015, the petitioner immediately filed a representation dated 04.01.2016 with a prayer to upgrade/expunge adverse remarks from the ACR for the period from 01.04.2012 to 16.10.2012 as conveyed to him vide memo dated 27.01.2014. The grievance of the petitioner in short therefore is that vide the impugned order dated 11.04.2016 (Annexure P-6), the said representation of the petitioner has not been considered on merits and has simply been considered and rejected as time barred.

4. Reply dated 09.08.2017 on behalf of respondents No.1 to 4 has been filed by Shri Ashwin Shenvi, IPS, Superintendent of Police, Sonipat. It has been stated in the reply that the representation submitted by the petitioner was rejected due to expiry of representation period.

5. In view of the above, this Court deems it appropriate to quash the order dated 11.04.2016. The respondents can not take a hypertechnical objection, especially when the Authorities themselves i.e Appellate Authority vide order dated 23.11.2015 (Annexure P-4) has accepted the appeal. Vide order dated 23.11.2015, punishment of stoppage of two annual increments with permanent effect has been modified to that of censure. Since this goes

to root of the matter, the Authorities were duty bound to decide the issue on merits to examine the effect of the decision taken by the Appellate Authority.

6. This Court therefore directs that respondent No.3 shall now decide the representation of the petitioner afresh on merits within a period of three months from the date of receipt of certified copy of the order.

7. Writ petition is disposed of accordingly.

(GIRISH AGNIHOTRI)
JUDGE

05.03.2020

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No