

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-764-2014

Date of decision: 20.01.2020

Hisham Singh

...Petitioner(s)

V/s.

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Virender Kumar, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

RITU BAHRI, J. (Oral).

By this petition, the petitioner is seeking quashing of letter dated 08.10.2012 (Annexure P-5) issued by respondent No. 2 vide which claim of 1st ACP scale after completion of 10 years w.e.f. 29.05.1999 was denied to him.

The petitioner was recruited on the post of Sweeper on 29.05.1989 on regular post. The ACRs of the petitioner for the period 1991-1992 and 1995-1996 were having 'average' remarks and this average remarks were considered to be adverse by the respondents and due to which he was not granted 1st ACP scale.

An affidavit dated 03.04.2017 was filed by the Joint Director Social Justice & Empowerment Department, Haryana, Chandigarh. As per this affidavit, the integrity of the petitioner was recorded adverse in his ACR for the year 1996-97. ACR for the period from 18.07.1996 to 31.03.1997 had been approved for conveyance to the petitioner by competent authority vide letter dated 28.08.1998 (Annexure A/2) and letter

of conveyance dated 31.08.1998 (Annexure A/1) was sent to the petitioner. It is further stated in the affidavit that in the civil suit filed by the petitioner, written statement was filed by the department in which details of adverse confidential report had been given and this report depicted that his ACR from the period 18.07.1996 to 31.03.1997 was 'below average' and had been conveyed to the petitioner vide letter dated 31.08.1998.

Hence for all intents and purposes, the adverse ACR for the period 18.07.1996 to 31.03.1997 stood conveyed to the petitioner vide letter dated 31.08.1998 (Annexure A/1) and this information had been given in the Civil Suit No. 606 of 2008 filed by the petitioner before the Court of Civil Judge (Junior Division), Karnal which was decided on 06.10.2008.

A perusal of letter dated 31.08.1998 (Annexure A/1) shows that in the column of integrity, it was recorded as unfavourable. The honesty was doubted for the period 18.07.1996 to 31.03.1997 and hence the benefit of 1st ACP could not be granted to the petitioner.

If the ACR for the period 18.07.1996 to 31.03.1997 is found adverse, still the petitioner's case could be considered after completion of 10 years from 31.03.1997 for 1st ACP, which has not been done in the present case. It has neither been mentioned in the written statement dated 20.11.2015 nor in the affidavit dated 03.04.2017. There is no reference of any adverse ACR after 1996-1997 with respect to honesty of the petitioner.

Hence, at this stage, this writ petition is being disposed of by giving direction to the respondents to consider the case of the petitioner for grant of 1st ACP after completion of 10 years from 31.03.1997 and further grant 2nd ACP if he is found eligible, within a period of three months from the date of receipt of certified copy of this order. If no order is passed

within the stipulated period, costs of Rs.25,000/- shall be paid to the petitioner by the respondents.

(RITU BAHRI)
JUDGE

20.01.2020
Divyanshi

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