

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

**CWP No. 10791 of 2020**

**DATE OF DECISION : 01.03.2021**

**Mohina**

**...Petitioner**

**Versus**

**Punjab and Haryana High Court and others**

**...Respondents**

**CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Navjot Singh, Advocate,  
for the petitioner.

Mr. R. S. Kalra, Advocate,  
for respondent No.1.

**(Presence marked through video conference).**

**ARUN MONGA, J. (ORAL)**

Grievance of the petitioner, working as a Clerk in this Court, is against recording of an entry by her Reporting Officer i.e. Assistant Registrar in Column No.8 of her Annual Confidential Report ("ACR") for the year ending December, 2018, which reads as under :

| <b>8.</b> | <b>Points on which information is required</b> | <b>Remarks by Assistant Registrar</b> |
|-----------|------------------------------------------------|---------------------------------------|
|           | Manners and Powers of working with others      | "Needs improvement"                   |

2. On receipt of the above information, petitioner submitted a representation on the administrative side of this Court to respondent No.2/ Registrar General. Request was to look into the matter while seeking specific reasons from the officer concerned as to what type of improvement is needed.

Respondent No.2 declined the said request vide an order dated 01.06.2019

(Annexure P-5). The petitioner thereafter appealed vide dated 09.07.2019 (Annexure P-6) before the competent authority/Registrar General seeking to expunge the aforesaid remarks given by the Reporting Officer.

3. Vide appellate order dated 21.09.2019 (Annexure P-7) appeal representation of the petitioner was rejected as not maintainable, leading to filing of instant writ petition, inter alia, impugning the appellate order.

4. Learned counsel for respondent-High Court at the outset submits that the petitioner seems to have been misled and wrongly informed that the aforesaid remarks in her ACR are adverse. Learned counsel argues that not only the remarks in the ACR in question are not adverse, but the same, in any manner, cannot be construed as penalty. He relies on Rule 35 of the High Court Establishment (Appointment and Conditions of Service) Rules, 1973, relevant of which is extracted herein below for ready reference :

***“Penalties 35. (1) The following penalties may be imposed upon officers and servants serving on the staff attached to the High Court namely:-***

*(a) Censure;*

*(b) Withholding of increments of promotion including stoppage at an efficiency bar, if any;*

*(c) Reduction to a lower post or time scale or to a lower stage in the time-scale;*

*(d) Recovery by deduction from pay of the whole or part of any pecuniary loss caused to a Government by negligence breach of orders;*

*(e) Suspension;*

*(f) Compulsory Retirement ;*

*(g) Removal from the Civil Service of the Government with no disqualification for future employment ;*

*(h) Dismissal from the Civil Service of the Govt. with a disqualification for future employment ;*

*Provided that the discharge of a person appointed on probation, during or at the end of the period of probation or before his confirmation in a substantive capacity in accordance with the terms of appointment shall not amount to removal or dismissal within the meaning of this rule.*

*NOTE: An order of temporary appointment referred to in the note under sub-rule (2) of rule 36 as non-appealable shall not be deemed to be an order withholding promotion or adversely affecting the rights of any person for a permanent vacancy.*

*(2) Any of the above penalties may be imposed by the authorities specified in Schedule II hereto annexed ; Provided that the Chief Justice alone shall have power to impose any penalty on the Registrar of the High Court.*

*(3) The rules or orders regulating enquiries into allegations against Government servants in the service of the Punjab Government 32 shall apply with necessary modifications and adaptations to enquiries into the conduct of officers and staff attached to the High Court. 2*

*(4) Notwithstanding anything contained to the contrary in the Punjab Civil Services (Punishment and Appeal) Rules, 1970 where the Enquiry Officer is other than the Disciplinary authority himself, the copy of the inquiry report shall be furnished to the delinquent officer, to enable him to represent to the Disciplinary Authority within the time specified as to why the enquiry report should not be accepted and acted upon by the Disciplinary Authority. 2*

*(5) Rule 11 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 in its application to the officers and staff attached to the High court shall read as follows:-*

*"Orders made by the Punishing Authority shall be communicated to the employee concerned, who shall be supplied with a copy of the report of enquiry, if any hold by Punishing Authority, for the purpose of filing appeal, if any, provided under the rules." 3*

*(6) Notwithstanding anything contained to the contrary in the Punjab Civil Services (Punishment and Appeal) Rules, 1970, the Disciplinary Authority may treat the enquiry report of the 'Sexual Harassment Probe Committee' as a report submitted by an enquiry officer under the Punjab Civil Services (Punishment and Appeal) Rules, 1970, and may take further action in accordance therewith".*

5. A perusal of the aforesaid Rules leaves no manner of doubt that, at worse, if that were to be the case, the petitioner's case can perhaps be construed under Clause (a) which is a penalty of censure.

6. On a query of the Court, learned counsel appearing for the High Court submits that aforesaid entry in the ACR is not a censure. Being not a penalty within the mean of Rule 35(1)(a), *ibid*, no appeal could have been filed against the same. He further argues that in any case, the so called adverse ACR,

as contended by the petitioner, is not under challenge before this Court. It is only the appellate order which has been assailed herein. Since the appeal itself was not maintainable, this court ought not to interfere.

7. Learned counsel for High Court relies on the contents of the affidavit/reply in support of his argument that such kind of remarks are merely advisory in nature and are invariably recorded in the ACR only for betterment and future improvement of an employee.

8. Having perused the affidavit/reply, I see no reasons to disagree with the submissions of learned counsel appearing for High Court. The instant writ petition seems to have been filed on mere apprehension that the ACR is adverse.

9. Advisory remarks given to an employee for his/her own improvement are not to be mistaken as if the superior is expecting an employee to be perfect. For, perfection can never be achieved but excellence can be, only if one chases perfection. *“If you look for perfection, you will never be content”*- so said ‘Leo Tolstoy’, one of the greatest authors and a philosopher.

10. Only those, who have perfected their imperfections, are not open to the idea of improvement, no matter, whatever be the advise of superiors. It is in the interest of an employee himself/herself to take such advisories/entries in the ACR in the right spirit and try to improve themselves, instead of construing the same as adverse. For that matter, an employee who has got “very good (A)” report stands to gain, if the superior lets him/her know the area of focus which needs improvement, while giving advisory remarks. Likewise, the best report one can earn is “outstanding (A+)” and that too wouldn’t mean that an employee is perfect and there is no room for improvement.

11. Any advisory remarks made for guidance of an employee cannot be said to be adverse. Advisory and adverse remarks are no way synonyms, as seems to be impression of the petitioner, both stand on different footing and are distinctly separate having different intent altogether. What has to be seen is the overall grading given to an employee in his/ her ACR. Certain other remarks given in the individual columns of ACR, are just to make an employee acquainted with his/ her shortcoming/s. The same are merely part reflection of the reasons of arriving at the overall grading given to the employee. Accordingly, an employee cannot be put to any disadvantageous position, qua such advisory remarks, while considering his/her case for any future service benefits like promotion, ACP and/or increment etc.

12. In view of the above, no ground for interference by this Court is made out.

13. The writ petition stands disposed of with the aforesaid observations.

**MARCH 01, 2021**  
Shalini

**(ARUN MONGA)**  
**JUDGE**

**Whether speaking/reasoned :** Yes/No

**Whether reportable :** Yes/No