

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.8295 of 2022 (O&M)
Decided on:20.05.2022

Jeet Ram

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Dr. Suresh Kumar Redhu, Advocate
for the petitioner.

Mr. Sanjay Mittal, Addl. A.G., Haryana.

JAISHREE THAKUR J. (ORAL)

The grievance of the petitioner herein is to the procedure adopted by the respondent-State in imposing a punishment upon him of stoppage of five annual increments, which was subsequently reduced to punishment of a written warning, on the basis of which adverse remarks have been recorded in his Annual Confidential Report for the period 01.04.2020 to 31.03.2021.

Learned counsel appearing on behalf of the petitioner would submit that the enquiry officer had exonerated the petitioner by his order dated 18.03.2020 (Annexure P-2), however, the punishing authority i.e. Superintendent of Police, Palwal issued a disagreement note dated 29.06.2020 as well as the show cause notice as to why punishment of stoppage of five increments with permanent effect be not imposed upon him. The petitioner replied to the show cause notice which was adjudicated vide order dated 28.07.2020 and the punishment was reduced to a written warning. Thereafter, the Superintendent of Police, Palwal vide order dated 27.10.2021 conveyed adverse remarks recorded

in ACR for the period 01.04.2020 to 31.03.2021 to the petitioner against which a representation was submitted to the Inspector General of Police, South Range, Rewari and the same was rejected vide order dated 17.01.2022. It is further submitted that a show cause notice dated 21.03.2022 was issued to the petitioner for downgrading his ACR for the year 2019-2020, which was duly replied by the petitioner, however, without taking into account pleas raised by the petitioner in the reply, his ACR for the year 2019-2020 has been downgraded vide order dated 28.03.2022 passed by the Superintendent of Police, Palwal.

It is contended that the order dated 28.03.2022 is a non-speaking order as none of the grounds taken in the reply to the show cause notice have been dealt with. The petitioner had categorically taken a plea that the FIR No.186 dated 01.10.2018 registered under Sections 323, 324, 506, 34 IPC and FIR No.233 dated 30.11.2018 under Sections 420, 506, 120B IPC registered at Police Station Hasanpur had led to registration of FIR No.176 dated 08.07.2019 under Sections 166A, 323, 341, 120B, 34 IPC and Section 7 of the Prevention of Corruption Act had been cancelled. It was in these proceedings that there was an allegation that the petitioner had demanded a sum of Rs.3 lakhs from the accused. A plea had also been taken that the enquiry officer had returned a finding that the petitioner was not guilty and had exonerated him, however, the Superintendent of Police had not accepted the enquiry report and had proposed punishment without giving any show cause notice to the petitioner or without asking for the petitioner's comments in violation of the judgment rendered by the Hon'ble Supreme Court in **Punjab National Bank Vs. Kunj Behari Misra (1998) 7 SCC 84**. It is also contended that in the reply, the petitioner had also taken various pleas reflecting all the good entries recorded for past years of

service, however, none of the pleas taken find any mention in the impugned order.

Per contra, learned counsel appearing on behalf of the respondent-State would submit that after due consideration, the impugned order has been passed downgrading the ACR of the petitioner herein. It is submitted that the show cause notice had been issued to the petitioner proposing to downgrade his ACR in consonance with principles of natural justice.

I have heard learned counsel for the parties and have perused the impugned order dated 28.03.2022, which is cryptic and has not taken into account any of the pleas that have been taken by the petitioner in his reply to the show cause notice. It would be expected of the higher authorities to deal with all pleas raised before passing any order that would reflect upon the character and integrity of the employee, especially considering the fact that any such adverse order would have an impact upon his service record.

At this juncture, it would also be worthwhile to note that there are several matters coming to this Court wherein due process is not being followed specially in terms of the judgment rendered by the Hon'ble Supreme Court in **Kunj Behari Misra's case** (supra). It would be expected of the department to be careful so that unnecessary litigation does not ensue and clog courts with the same. Let a copy of this order be sent to the office of Director General of Police, Haryana for necessary action.

In view of the aforesaid facts and circumstances, the writ petition stands allowed and the impugned order dated 28.03.2022 is hereby set aside with direction to the Superintendent of Police, Palwal to pass a fresh order within a period of two weeks from the date of receipt of certified copy of this order and communicate the same to the petitioner forthwith, considering the fact that the

Department has already decided to retire him compulsory, keeping his ACR in mind, which is subject matter of challenge in CWP No.8876 of 2022.

		(JAISHREE THAKUR) JUDGE
May 20, 2022	Whether speaking/reasoned	Yes/No
Pankaj*	Whether reportable	Yes/No