

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

CWP-8155-2017 (O&M)

Date of Decision: 06.12.2022

Jitender Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.Amarjeet Beniwal, Advocate for
Mr. Jagjeet Beniwal, Advocate
for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing letter dated 24.06.2015 (Annexure P-1) whereby the adverse remarks were conveyed to the petitioner; order dated 12.01.2016 (Annexure P-4) whereby the representation moved by petitioner regarding the same was rejected and order dated 23.01.2017 (Annexure P-6) whereby the appeal against above mentioned order has been dismissed.

2. To support his contentions, the learned counsel appearing on behalf of the petitioner relies upon the judgment of this Court rendered in ***State of Haryana vs. Prem Parkash Gupta, ADA, Kurukshetra, 1996(4) S.C.T. 673***. He does so to contend that delay in communication of adverse reports give a valuable right to the employee and such adverse reports are stale entries and cannot stand in the way to grant of selection grade to the employee and to consider his case for promotion.

3. Learned State counsel is not in a position to cite any contrary judgment.

4. To my mind also, the controversy involved in the present case is no more *res integra*. In fact, I need not labour all over again as the same has been succinctly summed up by the Supreme Court in ***Abhijit Ghosh Dastidar vs. Union of India and others, 2009 (16) SCC 146*** as under:

“8. Coming to the second aspect, that though the benchmark "very good" is required for being considered for promotion admittedly the entry of "good" was not communicated to the appellant. The entry of 'good' should have been communicated to him as he was having "very good" in the previous year. In those circumstances, in our opinion, non-communication of entries in the ACR of a public servant whether he is in civil, judicial, police or any other service (other than the armed forces), it has civil consequences because it may affect his chances for promotion or get other benefits. Hence, such non-communication would be arbitrary and as such violative of Article 14 of the Constitution. The same view has been reiterated in the above referred decision relied on by the appellant. Therefore, the entries "good" if at all granted to the appellant, the same should not have been taken into consideration for being considered for promotion to the higher grade. The respondent has no case that the appellant had ever been informed of the nature of the grading given to him.”

5. As an upshot of the above discussion, the petition is allowed. The impugned orders are set aside. The respondents are directed to expunge the adverse remarks from the ACR of the petitioner for the year 2005-06; upgrade the overall assessment from “below average” to “very good” and grant 1st ACP to the petitioner w.e.f. 01.10.2013.

6. Pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

December 06, 2022
ashish

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No