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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24604-2021

Date of decision: 22.04.2022

SATISH KUMAR

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Naresh Kumar Bansal, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

JAISHREE THAKUR, J. (Oral)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India with a prayer for issuance of a writ or direction in the nature of certiorari for quashing the impugned ACR in which adverse remarks were given to the petitioner for assessment period 11.06.2018 to 01.03.2019 (Annexure P-1) by the Deputy Commissioner of Police (Central), Faridabad as well as the order dated 28.07.2021 (Annexure P-2) passed by Commissioner of Police, Faridabad, whereby the representation of the petitioner dated 21.05.2021 (Annexure P-3), against down-grading of the ACR of the petitioner stands rejected.

Learned counsel for the petitioner herein would contend that the petitioner came to be appointed as Constable with Haryana Police, however, was nominated in an FIR No.4 dated 03.04.2018, under Section 7 of the Prevention of Corruption Act and Section 201 of the IPC, registered

at Police Station SVB, Faridabad and was arrested thereunder. The petitioner faced criminal trial as well as departmental proceedings which carried on simultaneously. The Inquiry Officer submitted final report exonerating the petitioner of the charges filed against him. The Commissioner of Police, Faridabad went through the departmental proceedings and agreed with the finding of the Inquiry Officer and, thereafter, while taking into account that the petitioner stood acquitted in the said FIR, treated his suspension period from 04.04.2018 to 29.05.2018, as period spent on duty. Learned counsel for the petitioner herein would contend that the petitioner stood exonerated by the trial Court under the said FIR, however, his ACR came to be down-graded for the period pertaining to 11.06.2018 to 01.03.2019, on the ground that the petitioner had been arrested in the said FIR under Section 7 of the Prevention of Corruption Act and Section 201 of the IPC. He further submits that the representation has also been dealt with for taking into account that the petitioner stood exonerated in the departmental inquiry as well as in the FIR and also that the department itself had treated his suspension period as the period spent on duty. He also submits that as on date, other than the impugned ACR, which is under challenge, the petitioner has a very good service record which was annexed with his representation and the same has not been taken into account.

Learned State counsel, on the other hand would submit that in fact the ACR of the petitioner stands down-graded after taking into account the fact that the petitioner was arrested and even his over all conduct had been noticed. It is submitted that the adverse remarks have been communicated to the petitioner herein and were recorded to give an

opportunity to the petitioner to improve his conduct.

I have heard learned counsel for the parties and have also perused the impugned order, whereby the representation of the petitioner for reconsideration of the adverse remarks stands rejected. A perusal of the same would show that the Commissioner of Police, Faridabad has taken into account that the petitioner herein was arrested under Section 7 of the Prevention of Corruption Act and Section 201 of the IPC, however, the said order does not notice or take into account the fact that the petitioner stands exonerated, both by the trial Court as well as the department and his period of suspension has also been treated as period spent on duty. In such a situation, this Court is constrained to set aside the impugned order 28.07.2021 (Annexure P-2) passed by Commissioner of Police, Faridabad, giving liberty to respondent No.2-Commissioner of Police, Faridabad to pass the order afresh while taking into account all the submissions made by the petitioner herein in his representation dated 21.05.2021 (Annexure P-3).

Consequently, the instant petition is disposed of in abovesaid terms.

22.04.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No