

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

CWP No.37369 of 2019

Decided on:19.05.2022

Rajpal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Aditya Yadav, Advocate
for the petitioner.

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

JAISHREE THAKUR J. (ORAL)

The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the impugned adverse remarks dated 07.06.2019 recorded by respondent No.4 in the Annual Confidential Report for the period from 26.04.2018 to 31.03.2019 and to further quash order dated 06.11.2019 passed by respondent No.3 whereby representation of the petitioner dated 01.08.2019 has been rejected.

Learned counsel appearing on behalf of the petitioner herein would contend that the petitioner came to be appointed as a Constable in the Haryana Police on 03.04.1989 and was then promoted as Exemptee Head Constable and further as Exemptee ASI. It is submitted that the petitioner has a good service record, which would be borne out from the last 10 years' ACRs, which have been annexed with the writ petition after obtaining the same under the Right to Information Act. It is submitted that he was served with an advisory note on

4.1.2019 in which it has been stated that reliable sources had informed that he was demanding money from the public, while being posted as Rider No.15. By the said advisory note, he was informed that he should work diligently and with devotion. It is further submitted that he was conveyed adverse remarks in his Annual Confidential Report for the period 26.04.2018 to 31.03.2019 in which his integrity has been doubted and in the general remarks there is reliance upon the advisory note issued on 04.01.2019.

It is contended that instructions have been issued time and time again to the extent that the Reporting Officer while recording the ACR has to be careful and in case there is an opinion that the delinquent officer is suspended on corruption charges or is believed to be corrupt, that opinion should be fortified by reasons. Definite opinion should be given by the Reporting Officer upon the integrity of the subordinate while writing confidential reports. It is argued that downgrading the ACR without any material on record is likely to affect chances of promotion.

Learned counsel appearing on behalf of the respondent-State would argue that writing of an ACR is a purely administrative action and the same has been recorded on the basis of analyzing the overall performance of the employee. It is further argued that the petitioner was posted at Police Station Tosham as Rider No.15 when it came to the knowledge of the Superintendent of Police, Bhiwani from reliable sources that the petitioner was demanding money from the public illegally and misusing his post. Moreover, the Inspector General of Police has already rejected the representation of the petitioner herein against adverse remarks in the ACR for the period 26.04.2018 to 31.03.2019. The basis of the entry of the adverse remarks is the advisory note that has been issued to the petitioner on alleged complaints having been received against him.

I have heard learned counsel for the parties and have perused the paper book. From the reply, nothing is clear as to what kind of material was available with the officer concerned at the time when the adverse remarks were recorded. A perusal of the instructions issued as far back as 12.12.1985 would clearly reflect that the Reporting Officer has to be careful at the time of recording of ACR in respect of integrity of the employee. Cogent reasons should also form a part of the ACR as to why the integrity of the subordinate is doubtful. A Coordinate Bench of this Court in the judgment rendered in CWP No.6969 of 2009 titled as **Azad Singh Vs. State of Haryana and others** decided on 26.09.2012 has clearly held that there should be cogent reasons as to why integrity has been doubted by the Reporting Officer, which has been followed by this Court in the judgment passed in CWP No.2637 of 2022 titled as **EASI Rajesh Kumar Vs. State of Haryana and others** decided on 06.05.2022.

Since a reading of the reply filed by the respondent-State and the order passed by the Inspector General of Police, Rohtak Range, Rohtak rejecting the representation of the petitioner would reflect that no cogent reasons are forthcoming as to why adverse remarks have been recorded in the ACR of the petitioner for the period 26.04.2018 to 31.03.2019. Even the order passed by the Inspector General of Police, Rohtak Range, Rohtak dismissing the representation of the petitioner just mentions that there is material available on the record. Such material has not been brought either to the notice of the Court or the petitioner. If there is any material available, the petitioner should have been put to it and also given a chance for improvement that would be the import of recording ACRs. Consequently, this Court has no hesitation in setting aside the order passed by the Inspector General of Police, Rohtak Range, Rohtak whereby representation of the petitioner stands rejected and the matter is remanded back

to the Inspector General of Police, Rohtak Range, Rohtak to look into the representation of the petitioner afresh and pass a speaking order thereon. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

The writ petition stands allowed in above terms.

(JAISHREE THAKUR)
JUDGE

May 19, 2022
Pankaj*

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