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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2906-1997 (O&M)

Date of Decision: 30.10.2023

R.C. Puri

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: None for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. No one appears for the petitioner. Even on the last date, no one appeared for the petitioner. This matter pertains to the year 1997.
2. Learned counsel for the State was asked to inform about the result of the charge sheet issued to the petitioner, and it is informed that the charge sheet has been dropped later on.
3. The petitioner by way of this writ petition has prayed for quashing of the orders Annexures P-6 and P-4, whereby he was communicated adverse remarks entered in his ACR for the year 1993-94, and also the order whereby appeal against the ACR was rejected. The petitioner has further prayed to expunge the said ACR.
4. A look at the adverse ACR for the year 1993-94 reflects that the remarks is as under:

"The officer has been very negligent in the excise office powers as DDO of this office. As a result of which excess

payment has made against the allotment of Rs.7.00 lac under the Medical Budget. Hence, he has proved to be irresponsible".

5. The submission of the petitioner in the pleadings of the writ petition is that the charge sheet issued to the petitioner also is on the same aspect, and therefore it could not have been entered as an adverse remark since the charges had not been proved. It is his further submission that the ACR was written by a person who was not competent as the petitioner had only worked for two months under the said reporting officer.
6. I have considered the submissions and find that the aforesaid remark entered in the ACR of the petitioner is on the basis of the departmental proceedings. The very purpose of entering a remark in the ACR is to reflect the functioning of the concerned employee. The assessment of the reporting officer may be based on complaints or charge-sheets or on some factual aspects.
7. However, as held by the Supreme Court in ***Union of India and others vs. E.G. Nambudiri, (1991) 3 SCC 38***, the reporting officer or the reviewing officer cannot be allowed to make adverse comments without there being any basis. If there was a departmental inquiry initiated against the concerned officer, the reporting officer/reviewing officer can form an opinion about the conduct of the concerned subordinate officer and enter the said remark in his ACR. Such action cannot be said to be arbitrary or unjustified. The remark which the reporting officer seems to have entered is the impression which he has gathered on the basis of the departmental inquiry initiated against the petitioner that he is irresponsible as there has been an excess payment

made. It is another thing altogether as in the charge sheet the allegation is of being allegedly guilty of making payments over and above the sanctioned budget. The allegations are thus found to be different from the opinion as gathered by the reporting officer. The assessment of the officer has to be objective while making remarks in the ACR.

- 8. In the present case, this Court is satisfied that the concerned reporting officer/reviewing officer has made the remark based on initiation of enquiry, and obviously some preliminary inquiry must have also been done in the matter. This Court would not substitute its opinion to that of the concerned officer who enters the remarks in the ACRs. Thus, this Court finds that his entering remarks is not arbitrary or whimsical.
- 9. Having noticed as above, this Court does not find any reason to interfere with the adverse remark entered and the order rejecting his appeal. The reporting officer even if has examined the work for two months is competent to express his opinion.
- 10. Writ Petition is accordingly *dismissed*.
- 11. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

October 30, 2023

Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |