

340

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9936-1996 (O&M)

Date of Decision: 27.07.2023

JAGDISH SINGH

.....Petitioner

V/s.

**STATE OF PUNJAB THROUGH ITS SECRETARY, DEPARTMENT
OF TRANSPORT, PUNJAB ROADWAYS 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. None has put in appearance on behalf of the petitioner today.
Even in pursuance of the order dt.07.02.2023 passed by this Court, learned
counsel for the parties have been informed by the Registry.

2. This Writ Petition is filed by the petitioner for quashing of the
adverse remarks made in his Annual Confidential Report of the year
1987-1988 communicated to the petitioner vide letter dt.11.7.1988
(Annexure P-1) and the order dated 14.02.1996, rejecting the representation
of the petitioner communicated vide order dated 28.05.1996
(Annexure P-8). Further, the petitioner prays for considering the case for
promotion to the post of Chief Inspector w.e.f. 16.11.1988.

3. It has been transpired from the record that this Writ Petition
pertains to the year 1996 and the petitioner has attained superannuation.

4. The adverse remark for the year 1987-88 in the ACR
communicated to the petitioner is as follows:-

“There are serious doubts, about his integrity. Overall grading be taken as Average”.

5. The petitioner in the Writ Petition states that respondent No.5 has entered the said remarks against all the officers including the Traffic Manager who was supervising the work of the petitioner.

6. Respondent No.5 was a General Manager and as per the reply filed by the respondents, he did not have any bias against the petitioner. The remarks entered in the ACR are usually based on the knowledge gained from various quarters about the performance, general behavior, conduct and reputation amongst the other workers. If an Officer has received some information about the employee's integrity and conduct, he may make such adverse remark in his service record, however, as has been held by the Supreme Court in the case of **M.S. Bindra** Vs. **Union of India and others**; (1998) 7 Supreme Court Cases 310 which held as under:-

“While viewing this case from the next angle for judicial scrutiny i.e. want of evidence or material to reach such a conclusion, we may add that want of any material is almost equivalent to the next situation that from the available materials no reasonable man would reach such a conclusion. While evaluating the materials the authority should not altogether ignore the reputation in which the officer was held till recently.

The maxim "Nemo Firut Repente Turpissimus" (no one becomes dishonest all of a sudden) is not unexceptional but still it is a salutary guideline to judge human conduct, particularly in the field of Administrative Law. The authorities should not keep the eyes totally closed towards the overall estimation in which the delinquent officer was held in the recent past by those who were supervising him earlier. To dunk an officer into the puddle of "doubtful integrity" it is not enough that the doubt fringes on a mere hunch. That doubt should be of such a nature as would reasonably

and consciously be entertainable by a reasonable man on the given material. Mere possibility is hardly sufficient to assume that it would have happened. There must be preponderance of probability for the reasonable man to entertain doubt regarding that possibility. Only then there is justification to ram an officer with the label "doubtful integrity"

7. The respondents have also not been able to place on record any complaint from any quarter received by the respondents about his general reputation being “dubious”. There is no charge-sheet issued to the petitioner of committing any kind of misconduct.

8. In **Dev Dutt** Vs. **Union of India and Others**; (2008) 8 SCC 725, the Hon’ble Supreme Court has held that one must be very cautious entering remarks relating to a Government Servant as the remarks have an effect on the future career of the said employee.

9. In the circumstances, the Apex Court has gone further to observe in **Sukhdev Singh** Vs. **Union of India and others**; 2013 (9) SCC 566 that each and every remark which may not be actually adverse must also be communicated.

10. Considering the above principles, this Court finds that respondents have not been able to support from any documentary proof about the integrity of the petitioner being doubtful. The rejection of his representation also does not reflect about his integrity is being in cloud.

11. It is also noticed that the Department has issued a Commendation Certificate to the petitioner on 26.10.1989 for recognizing his good work done by him in the Punjab Roadways. He was a member of the Flying Squad which is a posting requiring an Officer of high integrity.

There is no allegation relating to his performance.

12. This Court has, therefore, satisfied that the adverse remarks have been entered in the record whimsically and subjectively without reference to any actual misconduct on his part. The said adverse remarks, therefore, deserves to be quashed and is accordingly quashed and satisfied. Consequences shall follow.

13. The Writ Petition stands allowed accordingly.

14. Pending application(s), if any, shall stand(s) disposed of.

July 27, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes/No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>