

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

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CWP-29791-2022

Date of Decision: 29.11.2023

Ajmer and others

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Aditya Yadav, Advocate for the petitioners

Mr. Suneel Ranga, DAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the impugned letter dated 18.08.2021, Annexure P-5, conveying adverse remarks “below average” to the petitioners for the period 2020-21 recorded by respondent No.4. Further, it has been prayed that order dated 28.10.2022, Annexure P-18, rejecting the petitioners’ appeal against the adverse remarks on the ground of delay may be set aside, and the same may be ordered to be expunged.

2. Learned counsel for the petitioners restricts the prayer, at this stage, to quashing the impugned order wherein the petitioners’ appeals have been rejected on the ground of delay, and for deciding the same on merits.

3. Learned State counsel, however, seeks more time to file reply to the petition.

4. Considering the facts on record, it is apparent that adverse remarks for the year 2020-21 were conveyed to the petitioners on 18.08.2021 by Annexure P-5, against which they made a representation/appeal dated 06.09.2021, two of which are attached as Annexures P-6 & P-7. Subsequently, on 22.10.2021, Annexure P-8, it was recommended that a lenient view may be taken for expunging the remarks. The same recommendation was made by the Sub Divisional Officer also. Thereafter, on account of internal communication between the Executive Engineer (XEN) and Sub Divisional Officer (SDO) to decide the issue, the matter remained pending and final decision could not be taken. Finally, the petitioners again approached the respondents vide letters dated 05.07.2022, Annexure P-12 to P-17, praying that their appeal against the adverse remarks, dated 06.09.2021, may be decided by taking appropriate action.

5. In these circumstances, the petitioners' appeals against expunging the adverse remarks were decided by the impugned order dated 10.08.2022, conveyed vide order dated 28.10.2022, rejecting the same on the ground that the period of filing appeal should not exceed forty five days. No reasons have been cited as to how the appeals are time barred; there is no mention as to when were the adverse marks conveyed and when were the appeals filed. Nor has it been explained why the appeals/representations, dated 06.09.2021, filed against the adverse marks, within the stipulated period, could not be entertained. The order is non-speaking and unsustainable.

6. In view thereof, the impugned order, dated 10.08.2022 conveyed vide order dated 28.10.2022, is set aside, and respondent No.3 is directed to decide the petitioners’ appeals afresh on merits, by treating the same within limitation.

7. Disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

29.11.2023
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>