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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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RSA-2082-1995
Date of decision:23.01.2024

HARI CHAND

... APPELLANT

VS.

THE STATE OF PUNJAB & ANR.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gurmeet Singh Saini, Advocate for
Mr. S.C. Chhabra, Advocate for the appellant.

Mr. Athar Ahmed, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

1. Plaintiff-appellant is in second appeal before this Court challenging the concurrent finding of fact recorded by both the Courts below.
2. Hari Chand, plaintiff-appellant joined the police department as a Constable and was promoted to the rank of Head Constable in the year 1987-88. An adverse report was conveyed to him regarding his conduct for the period 21.11.1987 to 31.03.1988. He submitted a representation, but it was rejected. He filed a civil suit for declaration to the effect that the adverse remarks and order dated 17.10.1989, rejecting the representation, are illegal, null and void.

3. Upon being served, respondent-State contested the suit by raising various preliminary submissions. It was submitted that the adverse remarks were recorded by the SSP, Ferozepur, in the ACR of the plaintiff and order dated 17.10.1989 was passed by the DIG, Ferozepur, rejecting the representation. Plaintiff controverted the stand by filing a replication. After the issues were framed and the parties led evidence, Trial Court by judgment and decree dated 16.11.1993, dismissed the suit. Plaintiff-appellant remained unsuccessful in the first appeal, which was rejected by order dated 05.04.1995.

4. I have heard counsel for the parties and considered their respective submissions.

5. The argument raised by counsel for the plaintiff-appellant that the respondents failed to follow to the procedure laid down under Rule 13.17 and 14.48 of the Punjab Police Rules, 1934, before recording adverse remarks, deserves to be noticed and rejected. A perusal of Rule 13.17 shows that it provides the manner, in which, the ACRs are to be prepared. Rule 14.48 *inter alia* provides for communication of the recorded remarks to the employee. None of these rules provide for any procedure, which has to be adhered to before the remarks are recorded. In any case, breach of administrative instructions which are in the nature of guidelines for internal consumption by the officers at the time of recording Annual Confidential Reports do not confer upon an officer concerned, a right to challenge in the Court of law.

6. The purpose of preparing the Annual Confidential Reports and communicating them, came up for discussion before the Hon'ble

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Supreme Court in *Dev Dutt Versus Union of India and others 2008 (8) SCC 725*. Supreme Court held that it is necessary that the adverse remarks recorded should be communicated to the employee so that, he becomes aware about the assessment of his work and conduct by his superiors. It would enable him to improve his work in future and provide him an opportunity to make a representation, if he feels it is unjustified. Record reveals that the adverse remarks were communicated to the plaintiff-appellant, who gave a representation, which did not find favour by a higher official. There is nothing to exhibit any breach of principles of natural justice.

7. Recording of ACR is a matter of subjective satisfaction of the authority concerned and judicial review of adverse entries is excluded altogether. Interference by the Courts in the recording of ACRs is very limited and the employee can succeed only, in case, he is able to establish that the remarks are actuated by malice, ill will or spite of the officer recording them. Neither any pleading nor any evidence has been led to this effect. This Court is, therefore, of the view that there is no infirmity or illegality in the judgments passed by both the Courts below.
8. Finding no merit in the appeal, it is hereby dismissed.
9. Pending application(s), if any, shall stand disposed of.

23.01.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No