



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

257

CWP-6550-2024 (O&M)  
Date of decision: 11.12.2024

Vikas Verma

....Petitioner

Versus

Union of India and Others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present:- Mr. Rajeev Anand and Mr. Ujwal Anand, Advocates  
for the petitioner

Mr. Satya Pal Jain, Additional Solicitor General of India with  
Mr. Sunil Kumar Sharma, Sr. Panel Counsel for the respondents-UOI

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**AMAN CHAUDHARY, J. (ORAL)**

**CM-13345-CWP-2024**

Allowed as prayed for.

**CM-13346-2024**

Notice in the application.

Mr. Rajeev Anand, Advocate accepts notice on behalf of non-  
applicant/petitioner and has no objection to the prayer made in the application.

For the reasons mentioned in the application for waiving off the cost  
imposed vide order dated 08.08.2024, the same is allowed.

**CWP-6550-2024**

1. The prayer in the present petition is for quashing the impugned order  
dated 19.08.2023 as well as the order dated 23.08.2023, wherein representation  
submitted by the petitioner against the below benchmark grading of assessment  
year 2019-20, has not been considered and rejected on a simplicitor ground of the



same having not been filed within a period of 15 days of generation of such APAR.

2. It is apparent from para 3 of the preliminary submissions of the written statement that the respondents have not been able to substantiate the factum of handing over of the APAR to the petitioner, which reads thus:

“That all APAR should be communicated to an employee to give an opportunity to make a representation against the entries and final grading given in the report within a period of 15 days. Though no proof of handing over the APAR to the petitioner is available with the respondents but it can be assumed that he was given a copy of the APAR through his Inspector Incharge. It is worthwhile to mention here that the petitioner was really aware that why Below Average Grading was granted to him, as he knew that a criminal case was filed against him.”

3. Illuminating the importance and purpose of communication of remarks in the ACR, Hon’ble the Supreme Court in **Dev Dutt vs. Union of India**<sup>1</sup>, had observed thus:

“19. In our opinion, every entry in the A.C.R. of a public servant must be communicated to him within a reasonable period, whether it is a poor, fair, average, good or very good entry. This is because non-communication of such an entry may adversely affect the employee in two ways : (1) Had the entry been communicated to him he would know about the assessment of his work and conduct by his superiors, which would enable him to improve his work in future (2) He would have an opportunity of making a representation against the entry if he feels it is unjustified, and pray for its upgradation. Hence non-communication of an entry is arbitrary, and it has been held by the Constitution Bench decision of this Court in *Maneka Gandhi v. Union of India* (supra) that arbitrariness violates Article 14 of the Constitution.

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39. In the present case, we are developing the principles of natural justice by holding that fairness and transparency in public administration requires that all entries (whether poor, fair, average, good or very good) in the Annual Confidential Report of a public servant, whether in civil, judicial, police or any other State service (except the military), must be communicated to him within a reasonable period so that he can

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<sup>1</sup> (2009) 16 SCC 146



make a representation for its upgradation. This in our opinion is the correct legal position even though there may be no Rule/G.O. requiring communication of the entry, or even if there is a Rule/G.O. prohibiting it, because the principle of non-arbitrariness in State action as envisaged by Article 14 of the Constitution in our opinion requires such communication. Article 14 will override all rules or Government orders.

40. We further hold that when the entry is communicated to him the public servant should have a right to make a representation against the entry to the concerned authority, and the concerned authority must decide the representation in a fair manner and within a reasonable period. We also hold that the representation must be decided by an authority higher than the one who gave the entry, otherwise the likelihood is that the representation will be summarily rejected without adequate consideration as it would be an appeal from Caesar to Caesar. All this would be conducive to fairness and transparency in public administration, and would result in fairness to public servants. The State must be a model employer, and must act fairly towards its employees. Only then would good governance be possible. ”

4. The submission made on behalf of the petitioner is that insofar as the criminal case instituted against the petitioner is concerned, the same was on account of matrimonial discord as also the dispute stood settled, which cannot come in his way and though, in the departmental enquiry, he was removed from service, however, the said order was set aside on 25.11.2020 and the punishment was reduced to reduction of pay by two stages for a period of two years. Therefore, the grading for 2019-20, that also took into account the aforesaid required to be reconsidered for which the petitioner had submitted in his representation, that may be directed to be decided in a time bound manner.

5. The aforesaid ACRs are becoming a stumbling block for his consideration for selection to the post of Assistant Sub-Inspector, regarding which, limited departmental examination to be held on 20.12.2024 and the result be not declared in the meantime.

6. In wake of the above and in the interest of justice, this Court deems it

appropriate to direct the respondents to examine the representation filed and the one to supplement it, liberty for the same as sought, is granted, if filed within one week, which the learned counsel for the respondents on instructions states would be decided within a period of 4 weeks thereafter.

7. Disposed of accordingly. One post, for which the petitioner has applied be kept vacant, till the respondents do not take a final view on the aforesaid representation(s) is taken.

(AMAN CHAUDHARY)  
JUDGE

11.12.2024  
M.Kamra

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|---------------------------|---|----------|
| Whether speaking/reasoned | : | Yes / No |
| Whether reportable        | : | Yes / No |