



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

RSA-353-2023 (O&M)

Reserved on : 09.09.2025

Date of Decision: 31.10.2025

ASI Rupesh Kumar

.....Appellant

Vs.

Haryana State and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Surinder Kumar Daaria Advocate
for the appellant.

Mr. Ram Karan Sharma, DAG, Haryana

SUDEEPTI SHARMA J. (Oral)

1. The present regular second appeal is preferred against judgment and decree dated 04.07.2018 passed by learned Civil Judge (Jr. Division), Gurugram and judgment and decree dated 20.08.2022 passed by District Judge, Gurugram vide which the civil suit filed by the appellant was dismissed and appeal filed by appellant against the judgment and decree dated 04.07.2018 was also dismissed respectively.

2. Brief facts of the case as per pleadings in civil suit are that appellant was conveyed adverse remarks for the period between 31.08.2016 to 31.03.2017 by the Commissioner of Police Gurugram through the Deputy Commissioner of Police, West Gurugram vide letter dated 27.06.2017. The adverse remarks in the ACR were recorded on the basis of criminal case registered against appellant for misbehaving with an Advocate and that departmental enquiry was initiated for poor behaviour with the public.



3. In the departmental enquiry, the appellant was exonerated by the inquiry officer vide order dated 19.08.2017. The criminal case registered against him also culminated with cancellation report filed by the police on 14.07.2017. However, adverse entries in the ACR based on aforementioned proceedings were not expunged. He made representation against adverse remarks but the same was rejected vide order dated 25.09.2017. He, therefore, filed civil suit challenging communication dated 27.06.2017 and rejection order dated 25.09.2017. The civil suit filed by him was dismissed by Civil Judge (Jr. Division), Gurugram vide judgment and decree dated 04.07.2018. He filed appeal against the same which was also dismissed by Additional District Judge, Gurugram vide judgment and decree dated 20.08.2022. Hence, the present regular second appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

4. Learned counsel for the appellant contends that adverse remarks in the ACR were recorded only on two grounds. First, that a criminal case was registered against him for misbehaviour with an Advocate and a departmental enquiry was initiated against him for poor behaviour with public. And he was exonerated in departmental enquiry vide order dated 19.08.2017 and the criminal case was also culminated with cancellation report filed by police on 14.07.2017. Therefore, the adverse entries in the ACR are required to be expunged and both the Courts did not appreciate the very facts and dismissed the civil suit as well as appeal filed by him. He, therefore, prays that the present appeal be allowed.



5. *Per contra*, learned counsel for the respondents contends that civil suit as well as appeal filed by the appellant are rightly dismissed. He, therefore, prays that the present appeal be also dismissed.

6. I have heard learned counsel for the parties and perused the whole record of the present case with their able assistance.

7. Appellant-ASI Rupesh Kumar was examined as PW-1. In his cross-examination he admitted that he had not served any notice under Section 80 CPC to the respondents before filing the civil suit. He admitted that adverse entries were recorded in his ACR for the period between 31.08.2016 to 31.03.2017. He further admitted that departmental enquiry and criminal case was pending against the appellant and adverse entries were on account of the same. Further, that departmental enquiry was initiated against the appellant in case FIR No.1 dated 05.01.2013, wherein, he was punished with the sentence of withholding three temporary increments. Appellant filed appeal against the said order and his increments were restored to him. Rupesh Kumar further deposed that in FIR No.269 of 2014 registered at Police Station, Bhondsi, he was the IO and wife of accused Noor Jahan filed a complaint against him whereupon, an enquiry was ordered. In the said enquiry, appellant was found to be innocent. He further admitted that at the time of conveying his ACR to him, it was clearly mentioned in Para-20, thereof, that there were allegations of misbehaviour with an Advocate and an enquiry for poor misbehaviour with public was also pending against him. He further stated that in the criminal case registered against him cancellation report was submitted. Further, that he



was recruited in Police Department on 15.04.1992 and had obtained 17 good entries/rewards since then.

8. E/SI Sunil Dutt was examined as DW-1. In his cross-examination, he stated that as per record produced by him, there are adverse entries in ACR of appellant for the period between 31.08.2016 to 31.03.2017. He admitted that the reason for the adverse entries is registration of criminal case against appellant and his poor behaviour with the public. Further that in column No.3, 4, 7-14, 18, 21 and 22 of Ex.DW-1/C and DW-1/D, there are adverse entries against appellant, as even average remarks are considered to be adverse remarks. Further that the main reason for recording adverse entries is the general observation of the reporting officer. He stated that Ex.DW-1/E is not related to the ACR and is related to departmental enquiry conducted against the appellant. In Ex.DW-1/F the date of personal hearing given to the appellant is recorded as 25.09.2017. He denied that appellant had not been given personal hearing on 25.09.2017. Further that the presence of appellant on 25.09.2017 is established by his signatures on Ex.DW-1/F. He further admitted that adverse entries against appellant in his ACR are only during the period 31.08.2016 to 31.03.2017.

9. He further submitted that there is no adverse remarks in the ACR of appellant preceding that period. Further he stated that in the ACR for the period between 11.05.2012 to 31.09.2012 there were adverse remarks against the appellant which were later on expunged by Commissioner of Police.



10. A perusal of the ACR (on record) shows that appellant has been evaluated on 21 parameters. Adverse remarks have been passed against him on 14 parameters as depicted in Ex.DW-1/D i.e. letter of Commissioner of Police dated 27.06.2017, directing the Deputy Commissioner of Police, Head Quarter to convey the adverse remarks in the appellant's ACR to him.

11. So far as, contention of the counsel for the appellant that in the FIR registered against him cancellation report was given and in the departmental enquiry, appellant was exonerated, therefore, adverse remarks in the ACR should be expunged, is concerned, the same is not acceptable to this Court after perusing the ACR (on record), as well as evidence on record. Testimony of DW1-E/SI Sunil Dutt shows that he deposed that the basis for making adverse entries in the ACR of the appellant, were not only departmental and criminal proceedings pending against him but were also based upon the general observation of the reporting officer. Therefore, though the appellant had been exonerated from departmental and criminal proceedings, this fact alone would not be enough to expunge the adverse remarks in his ACR Ex.DW-1/C, communicated to him vide Ex.DW-1/D. In his ACR, the appellant has been remarked as being average on as many as 10 parameters, which includes moral courage and readiness to expose the malpractices of subordinates, attitude between subordinates and relations with fellow officers, general power of control and organizing ability, personality and initiative, power to command, interest in modern methods of investigation and modern police methods generally, preventive and detective ability, working and detective ability, reliability, gender sensitivity of a police officer and his handling of women issues. Further, appellant has been



remarked as being below average on the parameters pertaining to reputation in dealing with public and accessibility to the public. In the column of general remarks the appellant has been shown to be indisciplined and having very poor behaviour towards public and being not fit for public duty. The cumulative effect of the above entries has resulted to below average remark being given to the appellant. The general observations of reporting officer regarding appellant's ability on various aspects relating to his service are the basis for appropriate entries in his ACR. Further recording of ACRs is within the exclusive domain of the reporting officer and within his subjective satisfaction unless some malafides are proved against the reporting officer.

12. In the present case, no malafide has been attributed or proved against reporting officer. Therefore, there is no reason to come to conclusion that reporting officer had recorded wrong facts in the ACR rather the reporting officer recorded his overall observations, which falls within the administrative jurisdiction of the reporting officer. The Court cannot interfere with the exercise of administrative jurisdiction of reporting officer unless appellant succeeds in proving that the exercise of administrative power by reporting officer is vitiated by malafide or prejudice against him.

13. The appellant also approached Commissioner of Police for expunging the adverse entries. He after obtaining the comments from reporting officer, dismissed the representation of the appellant against the adverse entries in his ACR. Ex.DW-1/F shows that the appellant was present in the office of Commissioner of Police when he was dealing with his representation since in the said endorsement (Ex.DW-1/F) it has been clearly



stated that appellant had come to office of Commissioner of Police on 25.09.2017 for hearing his representation. Therefore, proper opportunity was granted to the appellant to explain his case.

14. In view of above, I do not find any infirmity in judgment and decree dated 04.07.2018 passed by learned Civil Judge (Jr. Division), Gurugram and judgment and decree dated 20.08.2022 passed by District Judge, Gurugram. The same are upheld.

15. Accordingly, the present regular second appeal is dismissed.

31.10.2025

(SUDEEPTI SHARMA)

Sahil

JUDGE

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