

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

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**RSA-890-1998****The State of Haryana**

. . . . Appellant

**Vs.****Sher Singh**

. . . . Respondent

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**Reserved on:09.02.2026****Pronounced on: 12.02.2026****Pronounced Fully/Operative Part:**

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**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

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Present: - Mr. Gaurav Garg, AAG, Haryana.

Respondent ex parte.

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**DEEPAK GUPTA, J.**

This Regular Second Appeal has been filed by the State of Haryana—defendant against the judgment and decree dated 13.11.1997 passed by the learned First Appellate Court, whereby the appeal filed by the plaintiff—Sher Singh (*respondent herein*) was accepted and his suit for declaration was decreed. The learned trial Court, vide judgment dated 16.09.1996, had dismissed the suit.

2. For convenience, the parties are referred to as per their status before the trial Court.

3. The plaintiff, who was serving under the defendant—State, instituted a suit seeking a declaration that adverse remarks recorded in his Annual Confidential Report for the period 01.04.1992 to 13.07.1992 and conveyed to him vide memo dated 15.03.1993 were illegal and liable to be expunged. It was pleaded that the said remarks were recorded merely on account of his suspension dated 03.04.1992 and the punishment of stoppage of two increments temporarily imposed upon him. According to the plaintiff, he had neither remained absent from duty nor committed any misconduct. He further contended that no opportunity to improve his work and conduct was

afforded to him before recording adverse remarks; that the confidential report ought to have been written annually and not for a short period of about three and a half months; and that the appeal preferred by him against the adverse remarks was wrongly rejected by the DIG on 02.10.1993. It was also pleaded that notice under Section 80 CPC had been served before filing the suit.

4. The defendant–State contested the suit. It was pleaded that during checking, the plaintiff was found under the influence of liquor; that he quarrelled with colleagues and remained absent from duty on several occasions; and that he was a habitual absentee, who had been advised to improve himself. After due proceedings, he was awarded punishment of stoppage of two annual increments vide order dated 09.07.1992, and his appeal against the said punishment was dismissed. It was further pleaded that the reporting officer was not required to grant a personal hearing before recording adverse remarks and that the remarks were based upon actual supervision of the plaintiff's work and conduct.

5. Upon appreciation of evidence led by the parties on the issues framed, the learned trial Court dismissed the suit. It recorded a finding that as per Government instructions, a reporting officer is competent to record confidential remarks if the employee has worked under him for at least three months. In the present case, the period from 01.04.1992 to 13.07.1992 exceeded three months. The trial Court also noticed that the plaintiff had in fact been found under the influence of liquor during the relevant period and had been punished accordingly. It concluded that the remarks were neither vague nor baseless and were recorded by the competent authority on the basis of its own observations. Finding no illegality or procedural violation, the suit was dismissed.

6. The learned First Appellate Court, however, reversed the said findings. It held that the annual confidential report was required to be recorded after 01.04.1993 and that there was no occasion to write a report for a short period of three and a half months. It further observed that the officer who had been transferred could not write the confidential report unless called upon to do so by the present incumbent; that there could not be two confidential reports for different periods of the same year; and that under Rule 7, Part IV of the

Punjab Government Circular dated 03.05.1960, a consolidated report was required. On this reasoning, the adverse remarks for the period 01.04.1992 to 13.07.1992 were held to be illegal and the suit was decreed.

7. Assailing the aforesaid reversal, the state is before this court.

8. Having heard learned State counsel and examined the record, this Court finds that the approach adopted by the First Appellate Court cannot be sustained.

9. The consolidated Government instructions placed on record, including Haryana Government Letter dated 02.03.1971, clearly stipulate that a reporting officer should not record remarks unless he has seen the work and conduct of the officer for at least three months during the financial year. The explanatory note clarifies that the period refers to actual supervision. There is no instruction mandating that only the officer incumbent on 01.04.1993 must write the confidential report, nor is there any requirement that a transferred officer becomes incompetent to record remarks unless formally requisitioned by his successor.

10. In the present case, it is undisputed that the reporting officer had supervised the plaintiff from 01.04.1992 to 13.07.1992, a period exceeding three months. Thus, the foundational requirement under the applicable instructions stood satisfied. The First Appellate Court imported conditions not borne out from the governing instructions. Administrative instructions must be applied as they stand and courts cannot read into the procedural mandates which are not expressly provided.

11. Further, the reasoning that two confidential reports for one year are impermissible is not supported by any binding rule placed on record. The administrative framework contemplates that reporting may be based upon actual supervision during the relevant period, and higher authorities may consider such remarks appropriately. The mere fact that remarks pertain to a part of the year does not render them illegal in the absence of a specific prohibition.

12. It is also well settled in service jurisprudence that recording of confidential remarks is primarily an administrative function involving subjective assessment of work and conduct. Judicial interference is limited to cases of mala fides, arbitrariness, violation of statutory provisions, or breach of principles of natural justice.

13. In the present case, there is no finding of mala fides. The plaintiff had been awarded punishment during the relevant period and had availed departmental remedies, which were rejected. No statutory violation has been demonstrated. The reporting officer was not required to afford a personal hearing before forming an opinion in the ACR, in the absence of any such mandate in the rules.

14. Moreover, the plaintiff had already availed the remedy of appeal against the adverse remarks. In the absence of proof of illegality or violation of principles of natural justice, a civil court would not ordinarily substitute its view for that of the competent administrative authority in matters of service assessment.

15. The First Appellate Court, therefore, misdirected itself in law by misinterpreting the applicable instructions and by declaring the adverse remarks illegal on grounds not supported by the governing framework.

16. Consequently, the judgment and decree dated 13.11.1997 passed by the First Appellate Court are set aside. The judgment and decree dated 16.09.1996 passed by the learned trial Court dismissing the suit are restored. The present Regular Second Appeal is allowed, and the suit filed by the plaintiff stands dismissed. No order as to costs.

12.02.2026

*Vivek*

(DEEPAK GUPTA)

JUDGE

*Whether Speaking/reasoned*

*Whether reportable*

*Yes*

*No*

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