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**(1995) 12 P&H CK 0084**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 5384 of 1995**

Om Parkash Gulati

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 13-12-1995

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (1996) 112 PLR 678

**Hon'ble Judges :** Jawahar Lal Gupta, J

**Bench :** Single Bench

**Advocate :** Surya Kant and Puneet Bali, for the Appellant; S.S. Khetarpal, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Jawahar Lal Gupta, J.—The petitioner was conveyed adverse remarks for the year 1989-90 vide letter dated July 19, 1990, a copy of which has been produced as Annexure P-7 with the writ petition. He filed a representation, which had been rejected vide order dated July 26, 1994. The petitioner challenges the adverse remarks as well as the order rejecting his representation on the ground that there is no evidence to substantiate the observations in the adverse report.

2. In the written statement, it has been pointed out that the petitioner had shown insubordination, misbehavior and was habitual in coming late to the officer. He did not improve despite verbal and written directions given to him on January 30, 1990, February 2, 1990 and March 12, 1990. Directions were also given to him on various subsequent dates. On account of persistent complaints, the reporting officer had transferred the petitioner from the Section where bills were passed to the receipt section. The petitioner did not comply with the order and exerted political influence. While working "on the seat concerning passing of bills/cheques the petitioner caused unnecessary harassment to the general public and adopted the method of pick and choose in passing bills/cheques." The petitioner wanted to stick to the seat so as to be able to oblige persons. The

reporting officer had several complaints about the petitioner's integrity and whenever he was asked to be careful, he adopted a defiant attitude and occasionally misbehaved with the reporting officer with dire consequences. As a result, respondent No. 3 recorded adverse remarks against him. The respondents have also pointed out that the petitioner's performance was assessed to be "average" in the year 1971-72. For 1972-73, he was communicated adverse remarks and his performance was adjudged as "below average". For the year 1973-74, the petitioner was conveyed a warning and was assessed to be "average". No report could be recorded for the year 1979-80 as the petitioner was absent from duty. He was awarded the punishment of stoppage of two increments vide order dated September 2, 1982. It has also been pointed out that the petitioner misbehaved with respondent No. 3 viz. the Treasury Officer. He was asked to explain. There was enough material on the basis of which the adverse remarks were recorded against the petitioner. His representation was rejected after obtaining comments of the reporting officer and after due consideration of the material on the record. On this basis, it has been prayed that the writ petition be dismissed.

3. A separate written statement has been filed by respondent No. 3. The allegations of malafide against him have been denied. It has been further pointed out that the petitioner "was posted on the seat concerning passing of bills and cheques including (those) of private contractors. In passing these bills/cheques he had been adopting the method of pick and choose with malafide intention and got several complaints from general public involving the honesty of the petitioner." In view of this position, the petitioner was transferred vide order dated February 16, 1990 to the receipt section. He did not comply with the order and brought about "undue political influence for cancellation" of the orders. Reference has also been made to different cases wherein the petitioner's explanation was called to show that he had been interfering in the working of other employees "with malafide intention". It has been stated that on several occasions, the petitioner was found surrounded by private contractors.

4. The petitioner has filed a replication controverting the averments made in the respective written statements and reiterating those in the writ petition.

5. Counsel for the parties have heard. The sole contention raised by the learned counsel for the petitioner is that there was no material on the basis of which any adverse remarks could have been recorded against the petitioner. Consequently, the counsel submitted that the report has to be quashed. The claim made on behalf of the petitioner was controverted by the learned counsel for the respondents.

6. A confidential report embodies the assessment regarding the work and conduct of an employee. It is based on every day observation. It is essential that the reporting officer acts bonafide and makes the assessment objectively. However, it is equally true that there cannot be documentary evidence in support of every observation. So long as the report is recorded bonafide and there is

some evidence on the basis of which the allegations may be justifiable, the writ court cannot normally interfere.

7. What is the position in the present case. The petitioner has undoubtedly alleged malafides against respondent No. 3 who had initiated the report against him. However, the allegations made by the petitioner are totally vague. These have been denied by the respondent. Furthermore, the remarks recorded by respondent No. 3 have been accepted by a higher authority and the petitioner's representation has also been rejected. Still further, the file containing the letters by which respondent No. 3 had called the petitioner's explanation on different occasions has been produced. The copies thereof as produced by the petitioner do not contain an accurate translation. A perusal of these letters does indicate that the petitioner exhibited extra interest in passing certain bills while he delayed the processing of others. He had to be, consequently, transferred from the particular seat. Further more, a perusal of these letters also shows that the petitioner's behaviour and conduct was not symbolic of a sense of discipline. In this situation, it cannot be said that there was no material on the basis of which the reporting officer could have suspected the petitioner's integrity or made the other observations as contained in the confidential report. Furthermore, the petitioner's representation was examined. Comments of the reporting officer were obtained. It was after consideration of the matter that the representation was rejected.

8. Taking the totality of circumstances into consideration, it appears that the petitioner has made reckless allegations without any basis. There is no ground to interfere with the impugned report and the order rejecting the petitioner's representation.

9. Consequently, the writ petition is dismissed with costs which are assessed at Rs. 5000/-.