

(2013) 03 JH CK 0068
In the Jharkhand High Court
Case No : Writ Petition (S) No. 6013 of 2006

R. Sundarasamy	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 19-03-2013

Acts Referred:

Citation : (2013) 3 JLJR 182

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sheela Prasad, for the Appellant; Faizur Rahman, CGC, UOI, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. Petitioner has sought for expunging of the adverse entries, which have

been entered in his Annual Confidential Report for the period 29.06.2000 to 31.03.2001 and 01.04.2001 to 31.03.2002.

2. It is the contention of the petitioner that entries are malafide and arbitrary and moreover for the similar charges departmental enquiry initiated

against him has been dropped finding it based upon flimsy ground on which no action has been taken.

3. According to the petitioner, he is a Sub-Inspector, Ministerial Work, under the respondent-Central Reserve Police Force. As per Annexure-1,

he was communicated adverse remarks for the period 29.06.2000 to 31.03.2001 wherein although it was indicated that he was proficient in

typing, average in referencing and paging of notes and possess adequate knowledge of rules and regulations and was punctual and his integrity is

beyond doubt, but adverse remarks were endorsed in the relevant columns of the ACR that he is intelligent but not a keen worker, displays casual

and careless attitude in updating his records, not prompt in disposal of work, undisciplined and takes advice of his seniors in a very negative sense.

His relationship with his peers and subordinates were not cordial and indulges in arguments with his colleagues and supervisory staff and he has

been advised/warned in writing many times to improve his efficiency by the Additional DIGP. It was also remarked that he keeps lot of pendency

on his table and was graded as below average. According to the petitioner he was ;again served with adverse remarks vide Annexure-6 dated

31.05.2002 for the period 01.04.2001 to 31.03.2002. He has been communicated certain adverse remarks relating to casualness in disposal of

work and that he does not take corrective measures in right spirit and found indulging in unwarranted correspondence. The petitioner obviously

made representations against the aforesaid communicated adverse entries but the same were, however, not expunged as per the petitioner.

4. It appears that from perusal of Annexure-4 dated 27.02.2003, which has been passed by the Directorate General, CRPF, that petitioner's

representation to DIG(C) on 11.02.2001 against these adverse entries for the period 26.06.2000 to 31.03.2001 was duly considered and found

devoid of merit and the representation was rejected vide office order dated 06.09.2001. The appeal against the same to the ADG(HQr.) was also

rejected on 03.06.2001. Thereafter he made memorial before the Director General, CRPF, order contained at Annexure-4, who after carefully

considering the representation of the petitioner, found no reason to interfere in the same as being frivolous and devoid of merits since the petitioner,

even after given ample opportunity to mend his ways, and despite all corrective measures his shortcomings continued to persist. His objection

against the adverse entries for the period 01.04.2001 to 31.03.2002 were also considered by the respondent authorities and it further appears

from perusal of the Annexure-7/1 dated 03.12.2002 and Annexure-8 dated 30.12.2003 passed by the Additional Director General, CRPF, that

they have found no reason to interfere in the adverse remarks entered into confidential reports of the petitioner for the said period. It further

appears that respondent-Additional Director General (Hqrs.) had passed a reasoned order, contained at Annexure-8, discussing each of his

contention/objection on different ACRs recorded by him and found no reason to interfere in these remarks. Learned counsel for the petitioner

heavily relied upon the order passed in the departmental proceeding initiated against him vide memorandum dated 05.10.2001 as according to the

petitioner, in respect of the three articles of charges relating to keeping the works pending, absentism for the period 08.05.2001 to 10.06.2001

and for disobeying the orders of superiors, the Deputy Inspector General, (COMNS) CRPF did not find it proper to proceed against the

petitioner on such flimsy ground and accordingly, departmental proceeding was dropped.

5. I have heard learned counsel for the parties and having gone through the relevant materials on records including the orders, which have indicated

hereinabove. The ACRs, which have been recorded for two periods were communicated to the petitioner for filing his objection on the adverse

entries recorded for different periods by the officers concerned under whom he served during the period. The petitioner was also given opportunity

to object to the same by filing representation/appeal/memorial as has been done in the present case. The consistent view of the higher officials,

which has been indicated in the order passed by the DG, CRPF also found that there is no ground for any interference in the recording of such

adverse ACRs, which were intended to ensure performance of the petitioner on certain counts. However, the departmental proceedings initiated

against the petitioner relating for keeping the work pending, absentism and for disobeying the orders of the ADIGP was dropped by the Dy.

Inspector General (COMNS). However, that may not be a ground to assail the adverse entries, which have been recorded in his ACR, relating to

lack of promptness in disposal of work, taking advise of his seniors in negative sense and entry of unnecessary arguments on trivial issues from

superiors and subordinates and also for not being keen worker, casual and careless attitude in updating his records. Learned counsel for the

petitioner has relied upon the judgment delivered in the case of Satyendra Prasad Singh Vs. The State of Bihar and Others, to advance her

submission that such adverse entries were arbitrary and without any basis and liable to be expunged. In the present case, however, order passed

on the petitioner's objection by the higher authorities upto the level of the Director General, CRPF do not appear to suffer from any perversity or

lack of application of mind or having not dealt with specific objection of the petitioner, therefore, in exercise of judicial review, this Court is not inclined to interfere in the findings of the competent authority, which have been recorded by proper application of mind. Therefore, the petitioner is not able to make out a case for expunction of adverse remarks. Accordingly, this writ petition is dismissed.