
(2009) 08 P&H CK 0182
In the Punjab And Haryana At Chandigarh

Rattan Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 26-08-2009

Acts Referred:

Arms Act, 1959 — Section 23, 39

Citation : (2009) 156 PLR 350

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—The petitioner seeks quashing of adverse remarks endorsed in his annual confidential report for the period from 18.3.2005 to 24.10.2005 and the order rejecting his representation submitted against the said adverse remarks.

2. As ASI, the petitioner was posted as Incharge, Police Post, Urlana which fell within the jurisdiction of Police Station, Madlauda where Shri Rattan Singh was the SHO. On 10.9.2005, at about 3.30 A.M. the petitioner received an information that mother and maternal grand mother of the complainant were murdered with use of pistol at about 4.00 P.M. on 9.9.2005. The petitioner as well as SHO leached the spot. He took the samples of the blood stains and sent these to FSL. Thereafter, the case was investigated by SHO. Superintendent of Police of the District, his initiating officer, did not find any fault, but the Inspector General of Police, in his capacity as reviewing officer endorsed following remarks in the annual confidential report of the petitioner, which were communicated to him through letter dated 26.9.2006:

A dishonest officer, got mixed up with the murderer (s) in case FIR No. 257 dated 10.09.05 IPC PS Matlauda and spoilt a day light double murder case, as came out subsequently. The accused got acquitted from the court because of tardy investigation and all dimensions were not covered during investigation.

3. The petitioner, immediately represented against these remarks on 7.11.2006. Simultaneously, a departmental enquiry was also ordered against the petitioner on 26.9.2006. After recording the statements of the witnesses, the enquiry officer gave a verdict of innocence in favour of the petitioner and the Superintendent of Police agreed with the same. Still, the D.G.P. rejected the representation of the petitioner against the adverse remarks endorsed in the A.C.R. which are clearly related to the incident arising out of FIR dated 10.9.2005. It is also alleged that while rejecting the representation, even the judgment passed by the trial court acquitting the accused in murder case has not been properly appreciated. Grievance is that the acquittal was not relating to the manner of investigation, which according to the petitioner in any case was conducted and handled by the SHO.

4. The factual basis made by the petitioner to challenge these adverse remarks is seriously disputed by the respondents in the reply filed. It is pointed out that the petitioner had inspected the spot, sent the dead bodies for post mortem examination, lifted the blood stained earth from the spot and had conducted the inquest proceedings. It is accordingly stated that the averment that petitioner did not conduct the investigation of the case is not factually correct. It is further pointed out that the petitioner even did not summon the FSL team on the spot for help. The blood samples, which were taken by the petitioner, got putrefied and this facilitated the acquittal of the accused in the said FIR. It is highlighted that it was a day light double murder where two ladies were killed. The petitioner with his experience was found to be careless and negligent in conduct of the investigation and so the remarks were endorsed in his annual confidential report. The I.G. being reviewing authority was stated to be fully competent to endorse such remarks and in this regard attention is invited to instructions/notification dated 14.2.1977 annexed with the reply as Annexure R-I.

5. What role the courts will have to interfere in the adverse remarks endorsed in an annual confidential report?. Annual Confidential Report is an assessment by a superior officer in regard to the functioning and working of an officer in a particular year to which such report pertains. The remarks in the annual confidential report about the assessment of an officer is on the basis of work and conduct and duties performed by such officer. The courts would hardly have any knowledge about the performance and is known to officers supervising such duties and functions. Whether such reports are true reflection of the work or functions and could be so and the officer could be so assessed in any particular manner, thus, would hardly be within the purview of courts. It depends upon the observation noticed by the superior functionaries for which there is hardly any scope of interference by the courts. The writ court in such cases may interfere on the limited grounds that are generally available for interference in exercise of writ jurisdiction. Whether the petitioner had got mixed up in this case and, thus, could be termed as a dishonest officer is a fact which was known to the officer assessing the petitioner in that particular year. The mere fact that enquiry held in this regard found the petitioner innocent would in itself be not a proof enough to

dispel this view formed by the initiating or the reviewing officer.

6. The charge sheet served upon the petitioner would clearly show that the allegations made therein related to not lifting and sealing blood stained earth from the spot properly and for sending the said parcel to FSL, Madhuban in wet condition. Allegation further is that the petitioner did not call the FSL team on the spot. The enquiry officer, thus, did not go into the fact whether the petitioner was mixed up with the murderers. It may also need a notice that the enquiry perhaps was held to punish the petitioner if the allegations against him were proved. The requirement of enquiry and the assessment in the A.C.R. are two different things. A.C.R. is meant for assessment of an officer which is an input for further advancement in service career, whereas punishment is for doing something which is wrong and is a misconduct. There may not be a case made out for punishing the petitioner as misconduct is not proved, but still if the assessing officer so finds that the petitioner had not performed his duty well, such assessment can be made in the A.C.R.

7. It may be true that the accused in this case were not acquitted on account of faulty investigation but it did appear to have contributed to the acquittal. A charge u/s 23 of the Indian Arms Act could not be proved for want of sanction u/s 39 for which the fault must lie with the police officials investigating the same. The fact that the witnesses did not support the prosecution may tend to support a view that the investigating agency may have somehow mixed up and went soft in investigating the case. That is not the finding but it is being mentioned to just being a possibility.

8. The reference by the counsel for the petitioner to the case of Avtar Singh v. State of Haryana and Ors. 1995(3) S.C.T. 214 relates to a case where adverse report of doubtful integrity was made and it led to supersession and pre-mature retirement of the petitioner therein. It is held that the reporting officer is supposed to base such remarks on definite material and after thorough verification of truth. These observations are related to some instructions dated 4.10.1956, which say that the vague remarks have to be avoided and no extraneous consideration should work in this regard. That does not appear to be the situation in the present case. In the case of Ram Murti v. State of Punjab and Ors. 2003(2) R.S.J. 422, the adverse remarks of doubtful integrity were ordered to be expunged, by observing that there was no basis for recording the complaint alleging fraud against the petitioner therein in connivance with the travel agent. Enquiry was in progress at the time of endorsing the remarks, in which he was exonerated. The present remarks endorsed against the petitioner are not based on the enquiry that was separately ordered against him and have been endorsed by observing that the petitioner had mixed up in this case. Having regard to the factual position that would emerge from the pleadings, no case for interference in endorsement of these adverse remarks in exercise of writ jurisdiction is made out.

9. The writ is accordingly dismissed.