

(2012) 08 P&H CK 0292
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 20859 of 2010

Subash Chander

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Citation : (2012) 08 P&H CK 0292

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : P.L. Verma, for the Appellant; Harish Rathee, D.A.G., Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioner has approached this Court impugning the notice for retirement dated 31.8.2010 (Annexure P-2) issued by respondent No.3-Commissioner of Police, Gurgaon on the ground that his ACR for the period 1.4.2008 to 31.8.2009 shows his honesty to be doubtful. Prayer has also been made for expunging the adverse remarks from the ACR of the petitioner Annexure P-3. Petitioner, who was working on the post of Assistant Sub Inspector, was assessed by respondent No. 4-Deputy Commissioner of Police (HQ), Gurgaon for the period 1.4.2008 to 31.8.2009 where following adverse remarks were recorded in his ACR as conveyed to him on 23.6.2009.

1.

Honesty

Doubtful

2.

Moral Character

Average

3.

Reputation for dealing with public and accessibility to the public.

Average

4.

Communal impartiality

Average

5.

Reliability

Average

6.

If any defect, whether the reporting officer brought same to the notice of subordinate through some letter.

Notice vide letter No. 1567-R/DCP/T Dated 9-3-09 for irresponsibility in works

7.

General remarks.

Allegation for demand of money and due to irresponsibility shifted from ZO-7. Written and verbal. Notices were given many times for irresponsibility.

8.

Category Report

Average.

2. ASI Subhash Chand 179/G may advised/warned to remove the above mentioned defects. His acknowledgment in token of having received this communication may kindly be sent on the enclosed spare copy to this office for record.

2. Counsel for the petitioner contends that these remarks have been recorded by respondent No. 4 without any basis and material on record. He states that no communication was sent to the petitioner prior to recording of the ACR and the representation preferred by the petitioner against the said ACR has also been rejected by respondent No. 3 vide order dated 17.11.2009 without passing a speaking order. Reliance has been placed by the counsel for the petitioner on the judgment of the Supreme Court in the case of State of U.P. vs. Yamuna Shanker Misra and another, 1997(2) SLR 311 to contend that the intent and purpose of recording the ACR is to give an opportunity to the employee to remove deficiencies and to inculcate discipline and the assessing authority is required to inform the employee of his deficiencies so that an opportunity is given to him to

improve his efficiency, work and conduct. He contends that the impugned adverse remarks as recorded in Annexure P-3 cannot sustain and the consequential order of notice for retirement dated 31.8.2010 (Annexure P-2) cannot sustain.

3. I have considered the submissions made by the counsel for the petitioner and on going through the records of the case, I do not find any merit in the contentions as have been raised by him. A perusal of the adverse remarks in the ACR Annexure P-3, which were conveyed to the petitioner, would clearly show that there were allegations of demand of money by the petitioner and due to negligence, he was shifted from ZO-7. Written and verbal notices were given to the petitioner many a times. This leaves no manner of doubt that the petitioner has been duly informed about his conduct but despite that there being no improvement, the adverse comments have been recorded against him. The mandate as laid down by the Supreme Court in its judgment in Yamuna Shanker Misra's case (supra) having been fully complied with, the present writ petition does not carry any weight and, therefore, the same stands dismissed.