

(2012) 08 P&H CK 0080
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 8439 of 2012

Union of India and others

APPELLANT

Vs

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

RESPONDENT

Date of Decision : 17-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2012) 08 P&H CK 0080

Hon'ble Judges : Satish Kumar Mittal, J; Inderjit Singh, J

Bench : Division Bench

Advocate : Rajiv Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The Union of India and others have filed the instant petition under Articles 226/227 of the Constitution of India for quashing the order dated 13.10.2010 (Annexure P-7) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'the Act'), whereby Original Application No. 253-HR of 2010 filed by Dr. Parveen Chopra (respondent No. 2 herein) has been allowed and action of the petitioners in downgrading the Annual Confidential Report of respondent No. 2 has been invalidated. In this case, in the selection made by the Union Public Service Commission in the year 1991, respondent No. 2 was appointed as Assistant Dental Surgeon (Group A). He was promoted as Divisional Dental Surgeon on 21.10.1995 and served with the Western Railways upto 20.3.2000. Thereafter, in March, 2000, he was posted at the Divisional Hospital, Ferozepur Cantt. He was further promoted to the post of Senior Divisional Dental Surgeon on 21.10.2001 in Junior Administrative Grade and then again promoted in the Non-Functional Selection Grade with effect from 21.10.2004. Now, he is working as Senior Divisional Dental Surgeon in Junior Administrative Grade (Non-Functional Selection Grade). In the year 2008-09, he was assessed as 'Good'. Though the

overall grading of the officer as 'Good' is not adverse, but for the purpose of further promotion, the overall assessment should be 'Very Good'.

2. Feeling aggrieved against the downgrading of his ACR from 'Very Good' to 'Good', respondent No. 2 made a representation dated 24.11.2009 (Annexure P-2) to the competent authority, which was rejected vide order dated 2.12.2009 (Annexure P-3). Thereafter, respondent No. 2 filed the Original Application before the Tribunal, which has been allowed vide order dated 13.10.2010 (Annexure P-7), while coming to the conclusion that there was no material for downgrading the ACR of respondent No. 2, particularly in view of the fact that for the last more than four years, the officer was earning 'Very Good' reports. The aforesaid order has been challenged in the instant petition.

3. We have heard learned counsel for the petitioner and gone through the impugned order passed by the Tribunal.

4. On the earlier date of hearing of this writ petition, during the course of hearing, the petitioners were asked to place on record the previous ACRs of respondent No. 2. In pursuance of the said order, the petitioners, vide CM No. 11091-CWP of 2012, have placed on record the ACRs of respondent No. 2 prior to the year 2008-09 and subsequent thereto. A perusal of the same reveals that the ACRs for the last 5 years prior to 2008-09 and subsequent thereto, i.e. for the years 2009-10 and 2010-11, are 'Very Good'. Thus, it is apparent that except the ACR for the year 2008-09, which was challenged by respondent No. 2 before the Tribunal, the other ACRs, particularly for the last 5 years and subsequent two years, are 'Very Good'. During the course of arguments, it has also not been disputed that for the year 2008-09, there is no adverse material against respondent No. 2, which may justify the downgrading of his ACR from 'Very Good' to 'Good'. Keeping in view the overall service record of respondent No. 2 and the fact that the petitioners did not produce any material justifying the recording of his ACR for the year 2008-09 as 'Good', which is below the benchmark for his further promotion, we do not find any reason to interfere in the order passed by the learned Tribunal. No merit. Dismissed.