

14 SUPREME COURT CASES (1997) 4 SCC

for adjudication on merits. But the counter-comments made against him by the Secretary were warranted in view of the material on record. He brought to our notice that as on the date when the entries were made, the vigilance enquiry was pending against the respondent and, therefore, the adverse remarks came to be made. The findings recorded by the Tribunal of malice and arbitrariness on the part of the Secretary as affirmed by the High Court are not warranted for two reasons. Firstly, since the Secretary was not eo nomine to the proceedings and had no opportunity to explain the position, it would be violative of the principle of natural justice. Secondly, since the vigilance enquiry was pending, unless the officer was exonerated and cleared from the cloud, necessarily, the Secretary could not clear the conduct and integrity of the officer. Therefore, the adverse remarks cannot be said to be to smack of arbitrariness.

9. The appeal is accordingly allowed only to the above extent. No costs.

(1997) 4 Supreme Court Cases 14

(BEFORE K. RAMASWAMY AND G.T. NANAVATI, JJ.)

SWATANTAR SINGH . . . Petitioner;

Versus

STATE OF HARYANA AND OTHERS . . . Respondents.

SLP (C) No. 4013 of 1997[†], decided on March 3, 1997

A. Service Law — Confidential Reports — Object/purpose — Held, is to afford an opportunity to an employee to improve himself so that efficiency in public service is improved (Para 5)

B. Service Law — Confidential Reports — Adverse remarks — Communication of — Object/purpose — Held, is to afford an opportunity to an employee to improve himself so that efficiency in public service is improved — Further held, if the employee shows improvement, the departmental authorities are expected to make a mention about it in subsequent reports (Paras 5 and 6)

C. Service Law — Confidential Reports — Objectivity in writing of, stressed (Para 5)

D. Service Law — Confidential Reports — Contents of — Integrity and devotion to duty — Assessment regarding — Held, can be made in the report (Para 5)

Held :

The object of writing the confidential report of a government servant and communication of the adverse remarks is to afford an opportunity to the officer concerned to make amends to his remissness; to reform himself; to mend his conduct and to be disciplined, to do hard work, to bring home the lapses in his integrity and character so that he corrects himself and improves the efficiency in public service. The entries, therefore, require an objective assessment of the work and conduct of a government servant reflecting as accurately as possible his sagging inefficiency and incompetency. The defects and deficiencies brought home to the officer, are means to the end of correcting himself and to show improvement towards excellence. The

[†] From the Judgment and Order dated 7-10-1996 of the Punjab and Haryana High Court in W P No 15698 of 1996

confidential report, therefore, would contain the assessment of the work, devotion to duty and integrity of the officer concerned. (Para 5)

a **E. Service Law — Confidential Reports — Adverse remarks regarding integrity and honesty — Reference to specific instances, held, not necessary — The remarks can be based on general reputation of the employee (Para 6)**

F. Service Law — Confidential Reports — Adverse remarks — Vague remarks — Remarks relating to integrity/honesty, based on general reputation of an employee, held, cannot be treated as vague (Para 6)

b The following adverse remarks were recorded against the petitioner, who was a Sub-Inspector of Police — (1) Honesty : “Report of corruption”; (2) Reliability : “Unreliable”; (3) Defects : “For improving, called several times and advised”; General Remarks : “Can become a good police officer if he can control corruption and temptation.” Petitioner’s contention was that the remarks were vague, without any particulars and rejection of petitioner’s second representation was arbitrary. Rejecting the contention,

c *Held:*

c Adverse remarks against the petitioner indicate and reflect that the Superintendent of Police had assessed the petitioner’s reputation, his honesty, reliability and general reputation gathered around the petitioner’s performance of duty and shortfalls in that behalf. The reputation of a corrupt person would gather thick and unchaseable clouds around the conduct of the officer and gain notoriety much faster than the smoke. Sometimes, there may not be concrete or material evidence to make it part of the record. It would therefore be impracticable for the reporting officer or the controlling officer writing the confidential report to give specific instances of shortfalls, supported by evidence, like the remarks made in the present case. More often, the corrupt officer manipulates in such a way and leaves no traceable evidence to be made part of the record for being cited as a specific instance. It would, thus, appear that the order does not contain or the officer writing the report could not give particulars of the corrupt activities of the petitioner. Here, *e* the Superintendent of Police honestly assessed that the petitioner would prove himself efficient officer, provided he controls his temptation for corruption. That would clearly indicate the fallibility of the petitioner, vis-a-vis the alleged acts of corruption. It cannot therefore be said that the remarks made in the confidential report are vague without any particulars and, therefore, cannot be sustained. Remarks against the petitioner were made on the basis of his reputation. It was, therefore, for him to improve his conduct, prove honesty and integrity in future in which event, obviously, the authority would appreciate and make necessary remarks *f* for the subsequent period. (Paras 5 and 6)

g **G. Confidential Reports — Adverse remarks — Representation — Second representation — Non-consideration of, on merits — Validity — Adverse remarks made by Superintendent of Police against Sub-Inspector of Police — Representation considered and rejected by Deputy Inspector General of Police — Further representation also rejected by the Director General of Police on the ground that there was no provision for second representation — Plea rejected that rejection of second representation was arbitrary (Paras 2, 4 and 6)**

H. Prevention of Corruption Act, 1988 — Ss. 7 to 13 — Deleterious effect of corruption on body politic, society and public service — Election — Corrupt practices

Held:

h It is sad but a bitter reality that corruption is corroding, like cancerous lymph nodes, the vital veins of the body politic, social fabric of efficiency in the public service and demoralising the honest officers. (Para 6)

I. Service Law — Government servants — Public service — Efficiency — Improvement of

Held :

The efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. (Para 6)

Petition dismissed

K-O-M/T/17679/CLA

Suggested Case Finder Search Text (*inter alia*) :

confidential near report*

Advocates who appeared in this case :

Ranbir Yadav, Advocate, for the Petitioner.

ORDER

1. This special leave petition arises from the judgment of the Division Bench of the High Court of Punjab & Haryana, made on 7-10-1996 in CWP No. 15698 of 1996.

2. The admitted facts are that while the petitioner was working as a Sub-Inspector of Police in Faridabad District in Gurgaon Range, adverse entries were made in his confidential report for the period from 25-4-1994 to 31-3-1995. The same came to be communicated to him by the Superintendent of Police, Faridabad on 2-8-1995. The representation made by the petitioner was rejected by the Deputy Inspector General of Police by proceedings dated 21-12-1995. His further representation was rejected by the Director General of Police in his letter dated 13-5-1996. It was stated therein that there was no provision for second representation. When the petitioner moved the High Court under Article 226, the writ petition was dismissed.

3. The entries made by the Superintendent of Police were as under:

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|--------------------|---|--|
| “1. Honesty | : | Report of corruption |
| 2. Reliability | : | Unreliable |
| 3. Defects | : | For improving, called several times and advised. |
| 4. General Remarks | : | Can become a good police officer if he can control corruption and temptation.” |

4. The contention of Shri Ranbir Yadav, learned counsel for the petitioner, is that the High Court has wrongly dismissed the writ petition in view of the settled legal position that if the adverse remarks impinge upon the career prospect of the petitioner, the representation made to the higher authorities requires consideration and that rejection thereof must be supported by reasons. The remarks made by the Superintendent of Police are vague and without any particulars and, therefore, the rejection of the second representation is unjust and unfair to the petitioner and is also arbitrary.

5. We find no force in the contention. It is true that in view of the settled legal position, the object of writing the confidential reports or character roll of a government servant and communication of the adverse remarks is to

afford an opportunity to the officer concerned to make amends to his remissness; to reform himself; to mend his conduct and to be disciplined, to do hard work, to bring home the lapse in his integrity and character so that he corrects himself and improves the efficiency in public service. The entries, therefore, require an objective assessment of the work and conduct of a government servant reflecting as accurately as possible his sagging inefficiency and incompetency. The defects and deficiencies brought home to the officer, are means to the end of correcting himself and to show improvement towards excellence. The confidential report, therefore, would contain the assessment of the work, devotion to duty and integrity of the officer concerned. The aforesaid entries indicate and reflect that the Superintendent of Police had assessed the reputation of the officer, his honesty, reliability and general reputation gathered around the officer's performance of the duty and shortfalls in that behalf.

6. It is sad but a bitter reality that corruption is corroding, like cancerous lymph nodes, the vital veins of the body politic, social fabric of efficiency in the public service and demoralising the honest officers. The efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. The reputation of being corrupt would gather thick and unchaseable clouds around the conduct of the officer and gain notoriety much faster than the smoke. Sometimes, there may not be concrete or material evidence to make it part of the record. It would, therefore, be impracticable for the reporting officer or the competent controlling officer writing the confidential report to give specific instances of shortfalls, supported by evidence, like the remarks made by the Superintendent of Police. More often, the corrupt officer manipulates in such a way and leaves no traceable evidence to be made part of the record for being cited as specific instance. It would, thus, appear that the order does not contain or the officer writing the report could not give particulars of the corrupt activities of the petitioner. He honestly assessed that the petitioner would prove himself to be an efficient officer, provided he controls his temptation for corruption. That would clearly indicate the fallibility of the petitioner, vis-à-vis the alleged acts of corruption. Under these circumstances, it cannot be said that the remarks made in the confidential report are vague without any particulars and, therefore, cannot be sustained. It is seen that the officers made the remarks on the basis of the reputation of the petitioner. It was, therefore, for him to improve his conduct, prove honesty and integrity in future in which event, obviously, the authority would appreciate and make necessary remarks for the subsequent period. The appellate authority duly considered and rejected the contention of the petitioner. Repeated representation could render little service. Rejection, therefore, is neither arbitrary nor illegal.

7. The special leave petition, therefore, does not warrant interference. It is accordingly dismissed.

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