

2025-PHHC:073020-DR



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Reserved on : 15th May, 2025

Date of Pronouncement: 28th May, 2025

1. LPA No.547 of 2021 (O&M)
State of Haryana and others ... Appellants
Rani Devi Versus ... Respondent
2. LPA No.548 of 2021 (O&M)
State of Haryana and others ... Appellants
Rani Devi and others Versus ... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.
Mr. Tejeshwar Singh, Advocate, for respondent no.1 in both the petitions.

SANJEEV PRAKASH SHARMA, J.

Challenge in the present appeals by the State of Haryana and the other officers of the Police is to the judgment dated 08.03.2021 whereby learned Single Judge has allowed two writ petitions bearing CWP Nos. 17240 of 2020 and 24220 of 2015 and directed the petitioner to be granted notional promotion accompanied by all her service benefits as no adverse remarks having been passed for which she is entitled to all the arrears of salary pay benefits etc. of that rank with effect from 26.10.2016 with interest @ 12% per annum from the day became due till realization of the amount

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and also set aside the adverse remarks entered in the ACR for the period 23.11.2014 to 31.03.2015.

2. Brief facts which need to be noticed are that the petitioner was initially appointed as Constable at Gurugram on 11.09.1988 and having participated in several sports activities and won several medals, she was granted adhoc promotion as Head Constable with effect from 31.12.1993. On account of her exemplary performance, the Director General of Police, Haryana, promoted her to the post of Head Constable along with cash prize and special diet vide order dated 15.12.1995. It is to be noticed that actual promotion to the post of Head Constable was not granted and she preferred civil suit for declaration to the effect that she was legally entitled to the said post with effect from the date of passing of the order dated 15.12.1995.

3. The Civil Suit was decreed on 29.11.1999. The appellants challenged the said judgment and decree in appeal. Learned Additional District Judge overturned the judgment vide his judgment dated 14.06.2000, however, in RSA No. 3508 of 2000, this Court allowed the appeal and restored the judgment and decree passed by the Civil Court on 29.11.1999 vide order dated 17.11.2003. In implementation of the said judgment, the petitioner was granted promotion on the post of Head Constable with effect from 15.12.1995. She was also granted seniority and placed above Daya Kaur and Shobha Rani. Her pay was also accordingly fixed on the post of Head Constable. In lieu of consequential orders, the petitioner was granted due date promotions as ASI with effect from 08.04.2002 and to the post of Sub-Inspector on officiating basis with effect from 01.07.2004. In the

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seniority list dated 15.09.2006 of Lady Sub-Inspectors, Gurugram, the petitioner was placed at Sr. No. 10 and Daya Kaur was placed at Sr. No. 8. While the petitioner was posted at Police Station, Udyog Vihar, Gurugram, under DCP, West, Gurugram, she was granted commendation certificate by the Deputy Commissioner, Gurugram. However, she was transferred to Police Line, Gurugram, despite there being no complaint against her vide order dated 18.02.2015 and was issued advisory note on 26.02.2015 alleging that she was interfering in the work of I.O. of Police Station, Udyog Vihar, which amounted to dereliction of duty and her integrity was brought under doubt.

4. While the petitioner was working as Additional Station House Officer at Police Station, Udyog Vihar, adverse remarks were entered in her ACR for the period 23.11.2014 to 31.03.2015 as under:-

“During your work as Additional SHO P. S. Udyog Vihar, your integrity was found doubtful for which an advisory note was also issued to you vide letter No. 165-176/Steno dated 26.2.2015.”

5. The petitioner submitted that the adverse remarks had been entered into her ACR due to personal bias of SHO Sube Singh, who had been harassing her. Adverse remarks were challenged by the petitioner in CWP No.24220 of 2015 praying for expunging of adverse remarks for the period 23.11.2024 to 31.03.2015 and also prayed for quashing of order 16.09.2015 whereby her representation was rejected by the Director General of Police, Haryana, wherein she had prayed for expunging doubtful integrity remarks from her ACR.

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6. Feeling aggrieved against the said adverse remarks, the petitioner preferred CWP No. 17240 of 2020 and submitted that on account of the said adverse remarks, she had been deprived of her due promotion to the post of Inspector from the date her juniors Sumitra Devi and Kamla Devi had been promoted i.e. 26.10.2016. Thereafter, she was compulsory retired vide order dated 30.08.2017 on attaining the age of 55 years. The petitioner challenged the order dated 30.08.2017 in CWP No. 20943 of 2017. The order of compulsory retirement dated 30.08.2017 was stayed by the Court. However, the writ petition was dismissed as withdrawn vide order dated 15.10.2020 by the petitioner.

7. Another representation was filed on 12.10.2020 praying for promotion as Inspector with effect from 26.10.2016. It is submitted that the petitioner was brought on the promotion list-E with effect from 12.09.2008 and was recommended for promotion to List-F to the Director General of Police vide office memorandum dated 13.01.2014 as she had completed 8 years or more regular service, out of which she had served as Sub-Inspector for 5 years as on 31.12.2013. Her name was again sent for promotion on 18.04.2015 and on 24.05.2016 but she was not promoted on the ground that there was an adverse remark of doubtful integrity in her ACR for the period 23.11.2014 to 31.03.2015.

8. The petitioner had submitted representation to the Director General of Police against the adverse remarks, which was rejected by speaking order dated 16.09.2015. Her representation sent to Additional Chief Secretary was also rejected vide order dated 28.05.2019. The adverse

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remarks were, therefore, challenged in CWP No. 24220 of 2015. The learned Single Judge took up both the cases relating to promotion as well as adverse remarks and after hearing arguments passed the aforesaid order (supra).

9. In appeal, learned counsel appearing for the State argued that the order of learned Single Judge granting promotion to the petitioner while setting aside the order dated 16.09.2015 with effect from 26.10.2016 was wrongful and unjustified. He submits that there was no occasion to promote the petitioner once there was an adverse entry in her ACR. The petitioner having already filed petition challenging wrongful adverse remarks and claim for promotion with effect from 26.10.2016 had filed third writ petition i.e. CWP No. 20943 of 2017 challenging the order of compulsory retirement at the age of 55 years. An interim order was passed and the petitioner continued to perform the duties but she withdrew the said writ petition on 15.10.2020. The petitioner was, therefore, retired from service vide order dated 19.10.2020.

10. Learned counsel appearing for the State submits that learned Single Judge has failed to take into consideration the stand of the State Government wherein it was specifically stated that as the petitioner herself has withdrawn her CWP No. 20943 of 2017, the notice of retirement dated 30.08.2017 remained upheld and she was, therefore, liable to be retired at the age of 55 years. Hence, there was no occasion for the learned Single Judge to grant promotion to the petitioner with effect from 26.10.2016 and to set aside the adverse remarks for the period 23.11.2014 to 31.03.2015.

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11. It was further submitted that the learned Single Judge has completely ignored the settled position of law that single adverse entry is sufficient to retire a police officer. He relied on order passed in LPA No. 1890 of 2018 - *Ram Dhari vs State of Haryana and others* decided on 22.01.2019 and in LPA No. 362 of 2011 *Davinder Singh vs State of Haryana and others*, decided on 11.05.2011.

12. We have heard learned counsel for the parties and have noticed, as above, all the facts which have come on record.

13. The adverse remark of doubtful integrity was mentioned without there being any basis. The petitioner had earned 57 commendation certificates two of which were first class awarded for outstanding performance of duty. In her 26 years service record, there was no red entry and there had been no case of any complaint against her. Thus, the learned Single Judge found that the adverse remark was wholly based on whims and fancies without there being any material document.

14. The contention of learned State counsel that the petitioner had misused the judicial remedy as she had already availed remedy by filing of petition to the Additional Chief Secretary, Government of Haryana, Department of Home, is wholly misconceived. Availing of judicial remedy, is different from preferring representation to the Government. We also notice that the representation filed before the Additional Chief Secretary was for expunging the adverse remarks.

15. The Court has also gone through the personal records of the petitioner and there was a specific mention of her reliability being honest,

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dependable, disciplined at all times with special appreciation. But it was only when she was posted as Sub-Inspector under the concerned SHO that stray entry of adverse nature and doubtful integrity was entered. It is settled law that no person becomes a thief in a day. Reference may be made to the judgment passed by Hon'ble the Supreme Court in **M. S. Bindra vs Union of India** 1998 (4) SCT 325, wherein it was held as under:-

“13. While viewing this case from the next angle for judicial scrutiny i.e. want of evidence or material to reach such a conclusion, we may add that want of any material is almost equivalent to the next situation that from the available materials no reasonable man would reach such a conclusion. While evaluating the materials the authority should not altogether ignore the reputation in which the officer was held till recently. The maxim "Nemo Firut Repente Turpissimus" (no one becomes dishonest all on a sudden) is not unexceptional but still it is a salutary guideline to judge human conduct, particularly in the field of Administrative Law. The authorities should not keep the eyes totally closed towards the overall estimation in which the delinquent officer was held in the recent past by those who were supervising him earlier. To dunk an officer into the puddle of "doubtful integrity" it is not enough that the doubt fringes on a mere hunch. That doubt should be of such a nature as would reasonably and consciously be entertainable by a reasonable man on the given material. Mere possibility is hardly sufficient to assume that it would have happened. There must be preponderance of probability for the reasonable man to entertain doubt regarding that possibility. Only then there is justification to ram an officer with the label "doubtful integrity".

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16. Similar view had already been taken by Division Bench of this Court in **Chander Singh Negi vs State of Punjab** 1992 (2) SCT 367.

17. Learned Single Judge has correctly assessed regarding the sharp contradiction that has crept in the working as for the same year the petitioner was awarded commendation certificate on Republic Day Parade for the year 2014-15, and during the almost same period adverse remark was entered in her ACR. The learned Single Judge also noticed that the Commissioner of Police, Gurugram made adverse remarks in the ACR of the petitioner while the Deputy Commissioner did not find anything amiss with her record.

18. Remarks made in the annual performance appraisal report or annual confidential reports, reflects the working of an individual. It creates civil rights because if the ACRs are tone-down or adverse remarks are entered, the concerned person would be deprived of his promotion as well as benefit of MACP for that period. Thus, before making any such remarks, reasons have to be mentioned. In **Dev Dutt vs Union of India** 2008 (8) SCC 725, Hon'ble the Supreme Court has stressed that even lowering down of ACRs from 'Very Good' to 'Good', may be treated as adverse and the same should be communicated to the concerned person.

19. We notice that the learned Single Judge has reached to the conclusion that the Joint Commissioner of Police, Headquarters, and the Commissioner of Police were both subject matter of controversy with each other during the relevant period i.e. 23.11.2014 to 31.03.2015. The Commissioner of Police has entered the adverse remarks while the Joint Commissioner of Police did not record any adverse remarks against the

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petitioner. It is also noticed that the petitioner was supposed to retire on 31.10.2020. As per the order of superannuation issued by the DCP (Headquarters) on 08.09.2020 but the Commissioner of Police withdrew the order dated 08.09.2020 and compulsory retired the petitioner with effect from 19.10.2020 i.e. 12 days before her due date of retirement. We, therefore, satisfied that the adverse remarks entered in the service record of the petitioner and the compulsory retirement order passed on the said basis are speck of arbitrariness more so as there is complete lack of material to justify such recording of ACR.

20. However, we find that after the adverse remarks were quashed and set aside and compulsory retirement order was set aside, the case of the petitioner was ought to have been directed to be placed for consideration for promotion to the authorities, who were required to examine the case of the petitioner by way of conducting new DPC and promote her from the date her juniors had been promoted after ignoring the period of adverse remarks. In our opinion, the High Court can only conduct judicial review but cannot act in place of the administrative authorities. In other words, directions cannot be issued by this Court to promote a person from a particular date and the only direction the Court can grant is to issue Mandamus to the State to consider the claim of the petitioner for promotion and pass suitable orders. We, therefore, modify the relief granted to the petitioner.

21. We, therefore, direct the appellant State to consider the petitioner's candidature for promotion with effect the date her juniors were promoted as Inspector i.e. 26.10.2016 by ignoring the ACR recorded for the

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period 23.11.2014 to 26.02.2015 and further grant all the benefits from the said date. She shall also be granted all consequential benefits, actual benefits with arrears of salary of the higher rank with interest @ 12%. We also direct that the petitioner's retiral benefits shall be accordingly revised and arrears thereof shall also be released with interest @ 12%.

22. Accordingly, the appeals are dismissed.
23. All pending applications shall stand disposed of.
24. No costs.

(SANJEEV PRAKASH SHARMA)
JUDGE

28th May, 2025
vs

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No