

2025:PHHC:006203-DB



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

CWP-4764-2022 (O&M)

Reserved on:- 08.01.2025

Date of decision: 16.01.2025

Prem Kumar

.....Petitioner

Versus

Punjab and Haryana High Court, Chandigarh and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUDHIR SINGH**

Present:- Dr. Pankaj Nanhera, Advocate,
Mr. Rahul Gautam, Advocate,
Mr. Yogesh Vashista Advocate, for the petitioner.

Ms. Divya Sharma, Advocate, for respondent No.1.

Mr. Salil Sabhlok, Sr. Deputy Advocate General, Punjab.

SUDHIR SINGH, J.

The petitioner has sought a writ of Certiorari quashing the impugned order dated 18.04.2022/20.04.2022 (Annexure P-17), whereby the services of the petitioner were dispensed with and the order dated 22.04.2022 (Annexure P-18), whereby the petitioner was communicated the said order. A further writ of Certiorari has been sought quashing the ACR (Annual Confidential Report) for the year 2015-16 dated 10.08.2016 (Annexure P-5); the order dated 03.12.2021 (Annexure P-15), whereby the representation of the petitioner was

rejected and the order dated 07.03.2022 (Annexure P-16), withdrawing the judicial work from the petitioner.

2. The brief facts of the case are that the petitioner was selected and appointed as an Additional District & Sessions Judge in the State of Punjab vide appointment order dated 09.04.2014. The services of the petitioner were governed by the Punjab Superior Judicial Service Rules, 2007 and were subject to successful completion of probation period as per the said Rules. It is the case of the petitioner that he had appeared as an Advocate for one Sanjana/Sangeeta in a complaint under Section 376 IPC against one Pawan Kumar. Said Pawan Kumar had submitted a complaint dated 20.12.2014 to this Court, a copy whereof was supplied to the petitioner vide communication dated 10.03.2015. The petitioner submitted his comments to the allegations contained in the said complaint vide his reply dated 20.03.2015, explaining the entire position. An inquiry on the said complaint was marked to the Vigilance Cell of this Court by the then Hon'ble Administrative Judge. It is further asserted by the petitioner that in the ACR for the year 2014-15, the petitioner was given 'B+ Good' grading and in the integrity column, it was mentioned- 'Good, subject to the outcome of the pending complaint'. In the preliminary inquiry, the OSD Vigilance (Haryana) submitted his report dated 28.05.2016, concluding that the petitioner while appearing as an Advocate for the prosecutrix (complainant) had approached the defence counsel and brother of the accused for settlement of the case for consideration. It was further concluded that the petitioner had procured two affidavits from Ms.

Sangeeta Rani @ Sanjana and had received an amount of Rs.1,50,000/- from the brother of the accused and, thus, the act of the petitioner, when he was practicing as an Advocate at Barnala amounted to professional misconduct. In the ACR for the year 2015-16, the then Hon'ble Administrative Judge of the Sessions Division, Amritsar, had graded the petitioner as 'C (Integrity Doubtful)'. In the integrity column it was mentioned – 'Doubtful'. In the complaint dated 20.12.2014 made by Sh. Pawan Kumar in FIR No.218 dated 12.08.2012 under Section 376 IPC, the officer has been held guilty by the Enquiry Officer. Not fit to be retained in service'. On 05.11.2019, the petitioner was informed by this Court that the proceedings on the complaint dated 20.12.2014, had been dropped and he was advised to be careful in future while performing the onerous duty of a Judicial Officer. The ACR for the year 2014-15, was finalized as 'B+Good' by Hon'ble the Chief Justice vide order dated 18.11.2019. The representation dated 27.09.2016 submitted by the petitioner contending therein that the allegations pertaining to the period before his appointment as Additional District and Sessions Judge could not be taken into consideration for anything during the period of his service as Additional District and Sessions Judge and that the preliminary Enquiry report could not be the foundation of the ACR, was rejected vide order dated 03.12.2021 and the ACR for the period 2015-16 was finalized as 'C-Integrity Doubtful' by the Full Court. Subsequently, the petitioner had received a communication dated 07.03.2022 (Annexure P-16) from the Registrar General of this Court in respect of the withdrawal of the Judicial work from him. The order

withdrawing the judicial work was challenged by him by way of the present writ petition, wherein notice of motion was issued, but during the pendency of the said writ petition, the respondent-State of Punjab had passed an order dated 18/20.04.2022, accepting the recommendations dated 07.03.2022 of the Full Court and dispensed with the services of the petitioner with the immediate effect. The aforesaid order has been assailed by the petitioner by the amended writ petition, terming the same to be illegal and unconstitutional.

3. Upon notice, the respondents have put in appearance. In the written statement filed on behalf of respondent No.1-Punjab & Haryana High Court, it is asserted that the petitioner had a chequered career which was evident from his ACRs for the year 2014-15, 2015-16 and 2019-20. It is further asserted that the petitioner in connivance with one Ms. Sanjana got registered a false case i.e. FIR No.218 dated 12.08.2012 under Section 376 IPC against the said Pawan Kumar. The petitioner when called upon, did not submit his comments within the stipulated time and his ACR for 2014-15 was recorded as 'B+Good' (provisional)- subject to the outcome of the complaint made by the said Pawan Kumar. The said remarks were approved by the Administrative Committee which were further approved by the Full Court on 09.03.2017 and the petitioner was communicated the same vide letter dated 20.03.2017. The factum of dropping of the proceedings in the aforesaid complaint by the Vigilance/Disciplinary Committee on 31.10.2019 duly approved by Hon'ble the Chief Justice on 04.11.2019, was admitted and so was the factum of treating the provisional remarks for the year 2014-15 as final. However, it is

pointed out that the preliminary Inquiry report of the OSD (Vigilance) Haryana dated 28.05.2016 found the conduct of the petitioner, while practicing as an advocate at Barnala amounting to professional misconduct. It is further pointed out that in the ACR for 2015-16, the overall grading of the petitioner was recorded as C (Integrity Doubtful) and in the integrity column, it was recorded that his integrity being doubtful, he was not fit to be retained in the service. The submission of the representation by the petitioner on 27.09.2016, for expunction of the adverse remarks on his work and conduct for the year 2015-16 is admitted but it is pointed out that he was given a personal hearing by the then Hon'ble Administrative Judge, Amritsar Sessions Division. It is further pointed out that the ACR Committee in its meeting held on 31.01.2017 considered the representation dated 27.09.2016 of the petitioner and rejected the same and thereafter, the said recommendations were accepted by the Full Court on 30.11.2021. It is further asserted that in the ACR for the year 2019-20, the petitioner was graded as 'B-average' and in the column of general assessment regarding strength and shortcomings, it was recorded that the officer lacked confidence in dictating evidence and since the evidence was the basis for recording a judgment, he could never be successful in recording correct conclusions unless he marshalled the art of recording evidence. The petitioner had submitted a representation dated 31.05.2021 for reconsideration of the remarks recorded in the ACR for the period 2019-20 and the ACR Committee in its meeting held on 29.07.2021 resolved to place the said report before the then Hon'ble Administrative Judge of Shri Muktsar Sahib

Sessions Divisions, wherein the petitioner was then posted. However, while considering the matter, the then Hon'ble Administrative Judge recorded that his Lordship had no occasion to assess and comment upon the quality of work or overall performance of the petitioner during the relevant period (10.04.2019 to 31.03.2020). Subsequently, the matter was considered by the ACR Committee in its meeting held on 09.12.2021 and the representation of the petitioner was rejected. The matter was subsequently referred to the Full Court, which is still pending consideration.

4. It is further asserted that the matter regarding the clearance of the probation period of 14 Officers, including the petitioner, was placed before the Recruitment and Promotion Committee (Superior Judicial Service) in its meeting held on 21.04.2016 and subsequently on 21.07.2016 when the probation period of the petitioner was deferred, as preliminary inquiry was pending against him. It is further pointed out that before the matter could be put up before Hon'ble the Chief Justice, the ACR remarks of the petitioner for the year 2015-16, were received as 'C-Integrity Doubtful' and Hon'ble the Chief Justice had been pleased to order that the matter be again placed before the Recruitment and Promotion Committee (Superior Judicial Service). The said Committee in its meeting held on 17.08.2016 had resolved that the petitioner be treated not to have successfully cleared his probation period and his services be dispensed with, subject to finalization of the ACRs by the Full Court. When the matter was put up before the Full Court in its meeting held on 8.09.2016, the matter was deferred till the

finalization of the ACRs by the Full Court. However, the Full Court in its meeting held on 18.04.2017 resolved that the probation period of the petitioner was cleared subject to finalization of the ACR for the year 2015-16. It was further resolved that the same shall not affect the proceedings pending consideration before the Vigilance and Disciplinary Committee in the matter arising from the complaint dated 20.12.2014 made by Pawan Kumar. Thereafter, the matter regarding consideration of clearance of the probation period of the petitioner was placed before the Recruitment and Promotion Committee (Superior Judicial Service) and the said Committee in its meeting held on 11.02.2022 recommended that the petitioner be treated not to have successfully cleared his probation period and his services be dispensed with. The aforesaid report of the Committee was placed before the Full Court which in its meeting held on 07.03.2022 resolved to dispense with the services of the petitioner with immediate effect and in the meanwhile, to withdraw the judicial work from the petitioner. It is, thus, asserted that as the integrity of the petitioner was doubtful and his probation was subject to the outcome of the disciplinary proceedings against him, his services were rightly dispensed with.

5. In the short written statement filed on behalf of respondent No.2-State of Punjab, it is pointed out that the services of the petitioner were dispensed with on the recommendations of respondent No.1-Punjab & Haryana High Court, in accordance with Rule 13 of the Punjab Superior Judicial Service Rules, 2007. It is

further pointed out that the relief sought by the petitioner is not directly related to respondent No.2.

6. Learned counsel for the petitioner has argued that the impugned order dispensing with the services of the petitioner is based upon the ACR for the period 2015-2016, for which, the petitioner was graded as 'C-Integrity Doubtful.' It is further argued that once the ACR for the period 2014-2015 was finalized to be 'B+ Good' and the remarks recorded therein were expunged, there is no justification in not expunging the remarks recorded in the ACR for the period 2015-2016. It is further argued that in both the ACRs i.e. for the period 2014-2015 and 2015-2016, in the integrity column, the remarks recorded were due to the complaint made by aforesaid Pawan Kumar. It is further argued that admittedly, the proceedings arising out of the complaint made by Pawan Kumar against the petitioner were dropped by the Vigilance/Disciplinary Committee on 31.10.2019 (approved by Hon'ble the Chief Justice on 04.11.2019) and the petitioner was advised to be careful in future, and, therefore, the very basis of the remarks recorded in the ACR for the 2015-2016 did no longer exist and hence, the impugned order is not sustainable in the eyes of law. It is further argued that the finalization of the ACR for the period 2014-15 as 'B+ Good' was not brought to the notice of the Full Court, while confirming the remarks made in the ACR for the period 2015-2016. It is, thus, argued that there was no material on record to maintain the remarks regarding the integrity doubtful of the petitioner in the ACR for the period 2015-2016. It is further argued that as per Rule 13 of the Punjab Superior Judicial Service Rules, 2007, the petitioner was to

remain on probation for a period of 2 years, which might be extended by the Governor in consultation with the High Court and such period was not to exceed a total period of 3 years. It is, thus, argued that if, the probation of the petitioner was not cleared within the aforesaid specified period, his probation would be deemed to have been cleared and, thus, the services of the petitioner could not have been dispensed with by the respondents without conducting a regular departmental inquiry as envisaged under Article 311 of the Constitution of India.

7. On the other hand, learned counsel appearing for respondent No.1-High Court has vehemently argued that in the complaint dated 20.12.2014 made by Pawan Kumar, a preliminary inquiry was conducted by the OSD (Vigilance), Haryana, who submitted his report on 28.05.2016 concluding therein that the acts and conduct of the officer, when he was practising as an Advocate at Barnala, amounted to professional misconduct. It is further argued that in the ACR recorded for the period 2015-2016, the then Hon'ble Administrative Judge had recorded integrity of the petitioner as doubtful and graded him 'C-Integrity Doubtful and not fit to be retained in service'. While referring to the recommendations of the ACR Committee on 31.01.2017, approved by the Full Court on 30.11.2021, vide which the representation of the petitioner regarding the adverse remarks recorded in the ACR for the period 2015-16 was rejected, it is argued that integrity doubtful recorded in Column No.7 is not merely based on the complaint dated 20.12.2014. It is further argued that another fact, which needs to be taken into consideration is the remarks recorded by the then Hon'ble Administrative Judge in the

ACR of the officer for the period 2019-2020, whereby in the column of General Assessment regarding Strength and Shortcomings of the petitioner, it was recorded that he lacked confidence in dictating evidence and that he allowed the Advocates to give dictation and whatever was dictated by him while recording evidence of a witness in the presence of the Hon'ble Administrative Judge, was not up to the mark or in complete consonance with the deposition of the witness and unless he marshalled the art of recording evidence, he could never be successful in recording correct conclusions. It is further argued that the ACR for the period 2019-2020 being 'B-Average' was never upgraded and therefore, the impugned order passed by the High Court does not suffer from any illegality.

8. Learned counsel appearing for the State of Punjab has toed the line of arguments of learned counsel for respondent No.1-High Court.

9. We have heard learned counsel for the parties and have also gone through the records of the case.

10. In our opinion, the following questions would arise for consideration:-

1. Whether the remarks recorded and overall grading in the ACR of the petitioner for the period 2015-16 could be made basis for termination of his services, especially when the proceedings in the complaint dated 20.12.2014 made by Pawan Kumar, on the basis of which the said ACR was recorded, were dropped by Vigilance/Disciplinary Committee vide its recommendations dated

31.10.2019, which were duly approved by Hon'ble the Chief Justice on 04.11.2019?

2. If the answer of Question No.1 is in negative, whether the decision of the Full Court dated 18.04.2017 regarding the conditional clearance of the probation period of the petitioner, will come into effect?

11. Coming to Question No.1, it may be noticed that in the ACR for the year 2014-15 recorded on 05.1.2016, the petitioner was graded by the then Hon'ble Administrative Judge, Amritsar Sessions Division, as 'B+ Good'. The said ACR reads as under:-

1.	Quality of work	
	(a) Conduct of business in Court and Office.	Good
	(b) Quality of judgment	Good
2.	Quality of work	Satisfactory
3.	Capacity of management, leadership, initiative, planning and decision making.	Good
4.	Inter personal relationship and team work.	Good
5.	State of health.	Good
6.	Period under observation of the Administrative Judge.	2014-15
7.	Integrity	Good subject to outcome of pending complaint.
8.	General assessment-regarding strength and shortcomings:	Good
9.	Grading- A Plus (Outstanding) A-Very (Good), B-Plus (Good), B-Average/satisfactory C-Below Average	B+ Good

12. In the complaint dated 20.12.2014 made by aforesaid Pawan Kumar against the petitioner, a preliminary Inquiry was conducted by OSD (Vigilance) Haryana and he submitted his report dated 28.05.2016 concluding as under:-

“From the statements of complainant’s brother-Sh. Manish Kumar Bansal (EW-2); Sh. Pushkar Raj Sharma, Advocate (EW-4); Sh. Ravi Shankar (EW-7)- Clerk of Sh. Rajiv Gupta, Advocate; Sh. Baljinder Singh Dhaliwal (EW-5)- Notary Public and Sh. Amar Nath- Oath Commissioner (EW-6), Chandigarh; report of handwriting & fingerprint expert, the call details and the conversation which took place between the complainant’s brother and officer, it appears that there are substance in the complaint. The officer being an Advocate for the prosecutrix, at that time, had approached Sh. Pushkar Raj Sharma, Advocate (EW-4) and Sh. Manish Kumar Bansal-complainant’s brother for settlement of the case for consideration. He procured two affidavits from Ms. Sangeeta Rani @ Sanjana and received Rs. 1,00,000/- and Rs.50,000/- from the complainant’s brother (EW-2). Thus, the acts and conduct of the officer, when he was practicing as an Advocate, at Barnala amounts to professional misconduct.....”

13. Thereafter, in the ACR for the year 2015-16 recorded by then Hon’ble Administrative Judge on 4.8.2016, the petitioner was graded as under:-

1.	Quality of work	
	(a) Conduct of business in Court and Office.	Average
	(b) Quality of judgment	Poor
2.	Quality of work	Reasonable
3.	Capacity of management, leadership, initiative, planning and decision making.	Satisfactory
4.	Inter personal relationship and team work.	Satisfactory
5.	State of health.	Good
6.	Period under observation of the Administrative Judge.	2015-16
7.	Integrity	Doubtful. In the complaint dated 20.12.2014 by Shri Pawan Kumar in FIR No. 218 dated 12.08.2012 under Section 376 IPC, the officer has been held guilty by the Enquiry Officer. Not fit to be retained in service.
8.	General assessment-regarding strength and shortcomings:	Integrity Doubtful.
9.	Grading- A Plus (Outstanding) A-Very (Good), B-Plus (Good), B-Average/satisfactory C-Below Average	C (Integrity Doubtful) (See Note 7 above).

14. The petitioner had submitted representation dated 27.09.2016 for expunction of the adverse remarks in the ACR for the year 2015-16. The ACR Committee in its meeting held on 31.01.2017 considered the representation of the petitioner under Item No.4 and recommended its rejection as under:-

“ Shri Prem Kumar, Additional District and Sessions Judge, Amritsar.

Consideration of representation dated 27.09.2018 made by the officer for expunction of adverse remarks recorded on his work and conduct for the year 2015-2016 by Hon'ble Administrative Judge of Amritsar Sessions Division and seeking personal hearing before His Lordship.

It was resolved that the remarks integrity doubtful recorded in Column No.7 is not merely based on the complaint dated 20.12.2014. As such, the representation of the officer is rejected.

(Hon'ble Mr. Justice Ajay Kumar Mittal recused himself with regard to this item)."

15. Subsequently the Vigilance/Disciplinary Committee in its meeting held on 31.10.2019 recommended dropping of the proceedings in the complaint dated 20.12.2014 made by aforesaid Pawan Kumar and it was resolved under:-

"The Officer has appeared in person and has been heard. The Committee has considered the matter in detail. The Committee recommends that no further action is called for and proceedings against the Officer be dropped. However, the Officer is advised to be careful in future while performing the onerous duty of a Judicial Officer."

The said recommendations were duly approved by Hon'ble the Chief Justice on 04.11.2019.

16. The Full Court in its meeting dated 30.11.2021, considered the report dated 31.01.2017 of the ACR Committee and resolved as under:-

"Resolved that the report dated 31.01.2017 of Hon'ble ACR Committee rejecting the representation dated 27.09.2016 of the officer, be accepted. The Annual Confidential Remarks on the work and conduct of the officer for the year 2015-16 be recorded as 'C-Integrity Doubtful'."

17. The matter regarding consideration of clearance of the probation period of the petitioner was placed before the Recruitment and Promotion Committee (Superior Judicial Service) and the said Committee in its meeting held on 11.02.2022 resolved as under:-

“Meeting note perused. The probation period of Shri Prem Kumar, a member of Punjab Superior Judicial Service was cleared by the Hon’ble Full Court subject to finalization of his Annual Confidential Report for the year 2015-2016. Now, Annual Confidential Report for the year 2015-2016 of the officer has been finalized by the Hon’ble Full Court as ‘C-Integrity Doubtful’. Therefore, the Committee recommends that the officer be treated not to have successfully cleared his probation period and his services be dispensed with.”

18. Subsequently, the Full Court in its meeting held on 07.03.2022, while considering the report of Recruitment and Promotion Committee (Superior Judicial Service), under item No.18, resolved as under:-

“18. Consideration of report dated 11.02.2022 of Hon’ble Recruitment and Promotion Committee (Superior Judicial Service) in the matter regarding clearance of probation period of Shri Prem Kumar, Additional District & Sessions Judge, in the State of Punjab.

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Resolved that the report dated 11.02.2022 of Hon’ble Recruitment and Promotion Committee (Superior Judicial Service) be accepted and the service of the Officer be dispensed with during the probation, being not satisfactory. Consequently, a recommendation be made to the Government of Punjab to dispense with the services of the Officer with immediate effect and in the

meanwhile, the judicial work from the Officer be withdrawn forthwith.”

19. Subsequent thereto, on 07.03.2022, the petitioner was communicated regarding the withdrawal of the judicial work from him. Vide order dated 18/20.04.2022 the services of the petitioner were dispensed with, with immediate effect during probation being not satisfactory in accordance with Rule 13 of the Punjab Superior Judicial Service Rules, 2007.

20. From the aforesaid factual position, which is not disputed and is rather based on the original records requisitioned from the Office, it boils down that when the ACR for the year 2014-15 was recorded by the then Hon'ble Administrative Judge, the complaint dated 20.12.2014 made by Pawan Kumar was pending and which was why the remarks and the overall grading recorded in the said ACR, were subject to the outcome of the pending complaint. Before the ACR for the year 2015-16 could be recorded by the then Hon'ble Administrative Judge, the OSD (Vigilance) Haryana in his preliminary enquiry report dated 28.05.2016 had concluded the acts and conduct of the petitioner, when he was practicing as an Advocate amounting to professional misconduct. It was thereafter, that on 04.08.2016, the then Hon'ble Administrative Judge, Amritsar Sessions Division graded the petitioner as 'C (Integrity Doubtful) based on the report of the Enquiry Officer, OSD (Vig.) Haryana. The Recruitment and Promotion Committee in its meeting held on 21.07.2016 deferred the probation period of the petitioner as preliminary enquiry was pending against him. The said Committee, in its meeting held on 17.08.2016 resolved as under:-

“Meeting note perused. In the earlier meeting dated 21.07.2016 of the Committee, probation period Shri Prem Kumar, Additional District and Sessions Judge, Amritsar, was deferred as a preliminary enquiry was pending against the officer.

Now, Annual Confidential Report for the year 2015-16 of the officer has been received, wherein his integrity has been observed to be doubtful and he is not fit to be retained in the service. Therefore, keeping in view the work & Conduct and Annual Confidential Reports, the Committee recommends that Shri Prem Kumar, Additional District and Sessions Judge, Amritsar be treated not to have successfully cleared his probation period and his services be dispensed with. This is subject to finalization of the Annual Confidential Reports by the Full Court.”

The matter was thereafter put up before the Full Court on 08.09.2016, when it was resolved as under:-

“ Resolved that the report dated 21.07.2016 of Hon’ble Recruitment/Promotion Committee (Superior Judicial Service) be accepted qua all officers except Shri Prem Kumar. It was further resolved that matter regarding clearance of probation period of Sh. Prem Kumar, Additional District & Sessions Judge be deferred till the finalization of the Annual Confidential Reports by the Full Court.”

21. It is pertinent to notice here that the Full Court in its meeting held on 18.04.2017, while considering the clearance of the probation period of the petitioner, resolved as under:-

“Resolved that the probation period of the officer is cleared subject to finalization of the Annual Confidential Report for the year 2015-16. The same shall not affect the proceedings pending consideration before Vigilance and Disciplinary Committee in the matter arising from complaint dated 20.12.2014 made by Sh. Pawan Kumar r/o Barnala against the officer. Increments due to the officer be also released.”

22. As noticed above, the representation dated 27.09.2016 regarding the adverse remarks recorded in the ACR for 2015-16, filed by the petitioner was rejected by the ACR Committee in its meeting held on 31.01.2017 and the said report of the ACR Committee was approved by the Full Court in its meeting held on 30.11.2021.

23. As indicated above, the matter regarding consideration of clearance of the probation period of the petitioner was placed before the Recruitment and Promotion Committee (Superior Judicial Service) and the said Committee in its meeting held on 11.02.2022 resolved that the Officer be treated not to have successfully cleared his probation period and his services be dispensed with. The said recommendations were approved by the Full Court on 07.03.2022, pursuant whereto the impugned order dispensing with the services of the petitioner was passed.

24. It may be noticed that the remarks recorded in the ACR for the year 2014-2015 were treated to be final by Hon'ble the Chief Justice on 18.11.2019, obviously for the reason that the proceedings arising out of the complaint made by aforesaid Pawan Kumar against the petitioner, were dropped by the Vigilance/Disciplinary Committee on 31.10.2019 and approved by Hon'ble the Chief Justice on 04.11.2019 and the petitioner was advised to be more careful in future, while performing his duty as a Judicial Officer. The same complaint was also the basis for recording the ACR of the petitioner in the year 2015-2016, wherein the petitioner was graded as 'C- Integrity Doubtful'. There is nothing on record except the aforesaid complaint to infer that the integrity of the petitioner was doubtful due to any extraneous consideration or otherwise. Still further, we notice that the Full Court decision dated 30.11.2021 and the recommendations of the Recruitment and Promotion Committee (Superior Judicial Service) dated 11.02.2022, approved by the Full Court on 07.03.2022, did not notice the dropping of the proceedings in the complaint filed by said Pawan Kumar and treating the ACR of the petitioner as 'B+Good' as final, for the year 2014-15. Therefore, applying the same ratio which was made basis for treating the provisional remarks recorded in the ACR for the year 2014-15 as final, the remarks recorded in the ACR for the year 2015-16 do not hold the ground and, therefore, there being no material except the aforesaid complaint of said Pawan Kumar, the proceedings wherein were dropped, the said remarks could not have been made the basis

for dispensing with the services of the petitioner. Accordingly, Question No.1 is answered in negative.

25. In view of our finding on Question No.1, let us now proceed to examine Question No.2. It is worth noticing here that as per the decision of the Full Court dated 18.04.2017, the probation of the petitioner was cleared subject to finalization of the ACR for the year 2015-16. It is admitted position on record that in view of the recommendations of the Vigilance/Disciplinary Committee duly approved by Hon'ble the Chief Justice, regarding the dropping of the proceedings against the petitioner in the complaint made by said Pawan Kumar, the said complaint could no longer be considered as a ground to record the overall grading of the petitioner. Since the provisional remarks for the year 2014-15 were treated to be final in view of the dropping of the proceedings in the complaint submitted by Pawan Kumar, we find that the grading of the petitioner for the year 2015-16 recorded as 'C-Integrity Doubtful' cannot be sustained. Once, we have held so, the decision of the Full Court dated 18.04.2017 regarding clearance of the probation of the petitioner will come into force and he shall be considered to have cleared his probation period on 18.04.2017. Question No.2 is answered accordingly.

26. The submission of the learned counsel for the High Court that the integrity doubtful recorded in column No.7, was not merely based on the complaint dated 20.12.2014, is not tenable in the eyes of law as there is nothing on record except the aforesaid complaint which was admittedly dropped later on, to indicate that the integrity of the

petitioner was doubtful. Still further, the submission of the learned counsel for the High Court that the Hon'ble Administrative Judge in the ACR for the year 2019-20 had recorded that the officer lacked confidence of detecting the evidence, was also one of the factors taken into consideration, while dispensing with his service, is not tenable, as the sole ground for dispensing with the services of the petitioner was the ACR for the period 2015-16.

27. In view of the above, we allow the present writ petition and quash the impugned order dated 18.04.2022/20.04.2022 and the Full Court recommendations dated 07.03.2022. The respondents are directed to upgrade the ACR of the petitioner for the year 2015-16 at least at par with the ACR for the year 2014-15, and to re-instate the petitioner in service with immediate effect with all consequential benefits.

28. Pending application(s), if any, shall also stand disposed of.

29. The original files with regard to the ACRs of the petitioner and the proceedings of the ACR Committee ordered to be retained vide order dated 08.01.2025, be returned to the Office.

[SUDHIR SINGH]
JUDGE

[SHEEL NAGU]
CHIEF JUSTICE

16.01.2025
himanshu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No