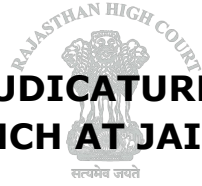




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Writ Petition No. 2136/2023

Pooran Chand Gupta S/o Late Sh. Govind Sharan Gupta, Aged About 48 Years, Resident Of House No. 40, Shubham Vihar, Near Water Tank, Mahesh Nagar, Jaipur - 302015.

-----Petitioner

Versus

High Court Of Judicature For Rajasthan, Through Its Registrar General Bhagwan Das Road, Jaipur 302005.

-----Respondent

For Petitioner(s) : Mr. Sunil Samdaria and
Mr. Arihant Samdaria
For Respondent(s) : Mr. Prateek Kasliwal with
Ms. Gauri Jasana and
Mr. Abhijeet Vaishnav

**HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE BHUWAN GOYAL
Order**

11/07/2024

1. This writ petition has been filed by the petitioner with the following prayers:-

"(i) To issue an appropriate writ, order or direction, quashing and setting aside the letters/orders dated 16.06.2022 and 21.07.2022 and expunge the adverse remarks recorded against the petitioner for the Year-2021 and grant him all consequential benefits.

(ii) Any other adverse or prejudicial order which may be passed during the pendency of the petition may also be quashed and set aside with all consequential benefits.

(iii) Any other appropriate order, which means fit and proper in the circumstances of the present case, may kindly be passed in favour of the petitioner."

2. Brief facts of the case are that the petitioner was appointed as Stenographer Grade-II vide order dated 30.03.1996.



Thereafter, the petitioner was promoted to the post of Personal Assistant-cum-Judgment Writer vide order dated 21.07.2005. Thereafter, the petitioner was promoted to the post of Senior Personal Assistant-cum-Judgment Writer vide order dated 20.12.2013. Thereafter, the petitioner was further promoted on the post of Private Secretary-cum-Judgment Writer vide order dated 08.09.2015.

3. Vide letter dated 17.12.2021 (Annexure 16), the petitioner was informed regarding adverse remarks entered in his APAR for the year 2021 by the Reporting Officer dated 16.06.2022 (Annexure 17). Being aggrieved by the remarks entered in his APAR for the year 2021, the petitioner submitted a detailed representation to the respondent on 18.07.2022 (Annexure 18) and the respondent vide their letter dated 21.07.2022 (Annexure 19) informed the petitioner with regard to decision on his representation which reads as under:-

"With reference to your above cited representation on the subject, I am directed to inform that your representation for expunction of remarks recorded in the APAR for the year 2021 has been considered and filed."

4. Hence, this writ petition has been filed by the petitioner challenging the orders dated 16.06.2022 as well as 21.07.2022 (Annexures 17 & 19).

5. Learned counsel for the petitioner argued that the entire service record of the petitioner was unblemished and the petitioner has worked with the concerned Reporting Officer of this Court for a period of 8 months only. Learned counsel further submits that the petitioner has submitted a detailed



representation to the respondent against the remarks entered in his APAR which has been decided by the respondent in a cryptic manner and without application of mind. Learned counsel further submits that the petitioner has a right to know that what decision has been taken by the respondent on his representation but unfortunately the same has been decided without communicating the reasons in detail.

6. Learned counsel for the respondent prayed for dismissal of the writ petition and submitted that representation submitted by the petitioner was duly considered by the respondent on administrative side and a decision was taken to file the said representation.

7. We have called the record file from the counsel for the respondent and gone through the record file. After going through the record, we are of the considered view that none of the contentions raised by the petitioner in his representation has been dealt with while deciding his representation.

8. At this stage, Mr. Sunil Samdaria, learned counsel for the petitioner pressed for deciding the matter on merits and prayed for quashing of the orders dated 16.06.2022 and 21.07.2022 (Annexures 17 & 19).

9. The Hon'ble Supreme Court in the matter of **Dev Dutt Vs. Union of India and Ors.**, reported in **2008 8 SCC 725**, wherein Para No.37, it has been held as under:-

"We further hold that when the entry is communicated to him the public servant should have a right to make a representation against the entry to the authority concerned, and the authority concerned must decide the representation in a fair manner and within a reasonable





period. We also hold that the representation must be decided by an authority higher than the one who gave the entry, otherwise the likelihood is that the representation will be summarily rejected without adequate consideration as it would be an appeal from Caesar to Caesar. All this would be conducive to fairness and transparency in public administration, and would result in fairness to public servants. The State must be a model employer, and must act fairly towards its employees. Only then would good governance be possible."



10. The Hon'ble Supreme Court in the matter of **Union of India and Ors. Vs. G.R. Meghwal**, reported in **AIR 2022 Supreme Court 4661**, wherein Para No.10, it has been held as under:-

"Therefore, in view of the above and in the facts and circumstances of the case and considering the fact that though the respondent was graded as "Very Good" in the ACRs for the years 2005-2006 and 2006-2007 and was graded only "Good" in the ACR for the year 2007-2008 by the very same reporting and reviewing officer, despite the fact that specifically the respondent was given the opportunity against the ACR for the year 2007-2008. However, no valid reasons are given for rejecting the representation, we are of the opinion that in view of the aforesaid facts and circumstances, the learned Tribunal and the High Court have not committed any error in directing the Department to call for a review meeting of the Screening Committee to reassess the suitability of the respondent for the purpose of grant of SAG and while doing so to exclude the ACR for the year 2007-2008. Therefore, in the facts and circumstances of the case, no interference of this Court is called for."

11. We have heard the counsel for the parties and perused the record. We have also perused the representation dated 18.07.2022 (Annexure 18) submitted by the petitioner before the respondent. We are of the considered view that the grounds



mentioned in the representation was not duly considered by the respondent while deciding the representation.

12. In that view of the matter, the writ petition filed by the petitioner deserves to be partly allowed in view of the judgments passed by the Hon'ble Supreme Court in the matters of **Dev Dutt and Union of India & Ors. (both supra)**.

13. Accordingly, this writ petition is partly allowed and the order dated 21.07.2022 (Annexure 19) passed by the respondent is set aside and the matter is remanded back to the respondent for reconsideration of the representation submitted by the petitioner afresh expeditiously.

(BHUWAN GOYAL),J

(INDERJEET SINGH),J

Payal/Sudeepak/52