

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.7033 OF 2001

Pawan N. Chandra

...Appellant(s)

Versus

Rajasthan High Court and Anr.

...Respondent(s)

O R D E R

The appellant joined Rajasthan Judicial Service in the year 1982. While he was working as Civil Judge (Senior Division) cum Additional Chief Judicial Magistrate, Nimbahera, the following adverse remarks were recorded in his Annual Confidential Report for the year 1996:

“Integrity doubtful. He is not fair and impartial in dealing with the public and the Bar. He is calculating and planning to earn more money. His honest is not absolute. His image in public is not bright. Capacity to handle files systematically – not adequate. He took no pains to disposal old cases. Capacity to control the proceedings in court with firmness and follow the procedure prescribed by law-inadequate. Below Average, Integrity certificate with held for the year 1996”.

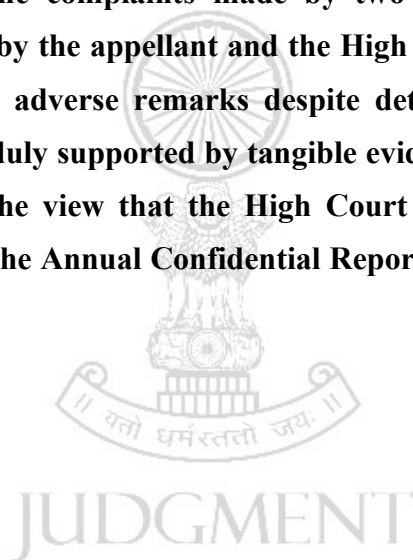
The representation made by the appellant for expunging the adverse remarks was rejected by the High Court on administrative side and the writ petition filed by him was dismissed by the impugned order.

....2/-

We have heard learned counsel for the parties.

In compliance of the direction given by the Court, learned counsel appearing for the High Court has produced the service record of the appellant including his Annual Confidential Reports. A perusal thereof shows that during the entire service tenure of the appellant from 1982 till date, no adverse remark has been recorded about his integrity except for the year 1996. From 1982 to 1995 and 1997 till date, the appellant has, by and large, been rated as a good officer. During these years his immediate superiors have written positive about his performance and integrity. Only in some of the years he has been rated as an average officer. For the year 1993, his performance was described as below average but on representation the said remark was expunged. In this backdrop, the sweeping adverse remarks made in the Annual Confidential Report of the appellant for 1996 casting doubt on his integrity, impartiality and capacity to work cannot be treated as justified more so because the same were primarily based on the complaints made by two accused whose bail application etc. had been rejected by the appellant and the High Court committed an error by refusing to expunge the adverse remarks despite detailed representation made by the appellant which was duly supported by tangible evidence. In the totality of the circumstances, we are of the view that the High Court was not justified in recording the adverse remarks in the Annual Confidential Report of the appellant for the year 1996.

....3/-



In the impugned order, the High Court has referred to the fact that in 1984, two judgments of the appellant were found below standard and in 1992 he was not found sitting in the court during the working hours on 3.4.1992 and concluded that his record cannot be treated as clean. The High Court has also taken adverse view of the appellant's assertion that the adverse entry of below average made in his Annual Confidential Report for the year 1993 was expunged by observing that the expunging of remarks cannot be made basis for claiming that his service record was clean. In our view, the approach of the High Court was clearly erroneous. Once the adverse remarks had been expunged, the same could not be relied upon for making an observation that the appellant's record was not clean.

Accordingly, the appeal is allowed. The adverse remarks reproduced in the earlier part of this order are directed to be expunged from the Annual Confidential Report of the appellant for the year 1996.

Needless to say that the appellant shall be entitled to all consequential benefits.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

New Delhi,
April 21, 2009.

JUDGMENT