

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

**Regular Second Appeal No.4423 of 2012 (O&M)
Date of decision: 20.04.2015**

Gurdev Singh Nagi

.....Appellant

Versus

The Punjab State Electricity Board and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kuldeep Sheoran, Advocate,
for Mr. Samrat Malik, Advocate,
for the appellant.

Ms. Avin Arora, Advocate,
for Mr. Amit Aggarwal, Advocate,
for the respondents.

Ritu Bahri, J.

CM No.12316-C of 2012

For the reasons mentioned in the application, same is allowed and
delay of 12 days in filing the appeal is condoned.

RSA No.4423 of 2012

Plaintiff-appellant has come up in regular second appeal against
the judgments of concurrent findings of fact recorded by both the Courts
below i.e. Addl. Civil Judge (Senior Division), Gurdaspur and the
Additional District Judge, Gurdaspur, whereby his suit has been dismissed.

Gurdev Singh Nagi-plaintiff (appellant herein) was posted as AEE
at Sub Station, Dhangu Road, Pathankot. When the plaintiff-appellant was
working as AEE (Operation) Sub Division, Punjab State Electricity Board,

Dhariwal, he was conveyed with adverse remarks for the period from

20.06.1995 to 07.02.1996 by the Secretary, Punjab State Electricity Board, Patiala, vide memo dated 26.09.1996. Those adverse remarks were recorded by the reporting officer Sh. H.S. Nag, who was working as XEN in Division Sri Hargobindpur. As per the plaintiff, the aforesaid XEN was biased against him because the plaintiff had refused to fulfill his illegal demands. Against the adverse remarks in his ACR, the plaintiff-appellant filed a representation before the revisional authority, which was rejected vide order dated 13.05.1999. Thereafter, he submitted a petition before the Admn. Member, Punjab State Electricity Board, Patiala, but the same was also rejected vide order dated 15.04.2002. Consequently, he filed the present suit challenging the aforesaid orders.

Upon notice, defendant-respondents filed written statement and controverted the allegations levelled by the plaintiff-appellant in his suit.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the suit is not maintainable in the present form? OPD
2. Whether the Court has no jurisdiction to entertain and try this suit? OPD
3. Whether the impugned orders are liable to be set aside on the ground mentioned in the plaint, if so its effect? OPP
4. Whether the plaintiff is entitled to relief of declaration, as prayed for? OPP
5. Whether the plaintiff is entitled to relief of mandatory injunction, as prayed for? OPP
6. Relief.

Both the Courts below have decided against the plaintiff. Hence,

The relief sought by the plaintiff-appellant was to expunge the adverse remarks given by the reporting officer in his ACR for the period from 20.06.1995 to 07.02.1996 being the result of malafide intention on the part of defendant No.3. Though he filed representation(s) against those adverse remarks, but the higher authorities did not expunge the same. While passing the orders, the higher authorities had given an opportunity to the plaintiff-appellant to file objections against the adverse remarks in the ACR for the period from 20.06.1995 to 07.02.1996 vide Ex.D1. The representation moved by the plaintiff before the higher authorities was considered and rejected by the Under Secretary vide Ex.D2. Thereafter, vide order dated 13.05.1999 (Ex.D3), the Secretary, PSEB, Patiala had rejected the review application of the plaintiff.

The scope of interference in recording of the ACR, which was on the subjective satisfaction of the competent authorities, has been considered by the Hon'ble Supreme Court in **Anil Mishra Vs. Union of India & others**, 2008 (4) RSJ 577. In that case, the Hon'ble Supreme Court has held that the adverse entry in the ACR is administrative action and if, it was conveyed to the employee and his representation has been considered and rejected by the reporting authority, the Court could not sit as Appellate Authority over the reporting authority.

Before the trial Court, the plaintiff-appellant had admitted that the complaint made by him against the reporting authority was enquired into by the Vigilance Department as well as Security Department. Once necessary enquiry had been conducted by the vigilance department against the reporting officer on the allegations levelled by the plaintiff-appellant that he was biased against him and his subsequent representation has been rejected

entries made in his ACR by the reporting officer on his subjective satisfaction.

After going through the judgments passed by the Courts below, this Court is of the view that the suit of the plaintiff-appellant has been rightly dismissed and no illegality, much less perversity, has been found in the impugned judgments, warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

20.04.2015
ajp

(RITU BAHRI)
JUDGE