

In the High Court of Punjab and Haryana at Chandigarh

RSA-1608-2013 (O&M)

Date of Decision:19.01.2016

VED PRAKASH ARYA

....Appellant

Versus

MANAGING DIRECTOR HARYANA STATE COOP.AGRICUL.AND
ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Sumit Gupta,Advocate for the appellant

SABINA, J.

Appellant had filed suit for declaration that the adverse remarks recorded in his annual confidential report for the year 2003-04 were illegal, null and void.

The case of the appellant, in brief, was that he was working as Junior Accountant in Primary Co-operative Agricultural and Rural Development Bank Ltd.Radaur. Earlier, he was appointed as officiating Manager at Primary Co-operative Agricultural and Rural Development Bank Ltd. Karnal from 27.10.1999 till 6.8.2004. Defendant No.2 was posted as Additional General Manager but was discharging his duties of District Manager at Karnal. Defendant No.2 was inimical towards the appellant and due to this reason, he had recorded adverse remarks in the annual confidential report of the

appellant pertaining to the year 2003-2004. The said remarks were conveyed to the appellant on 31.5.2005. Thereafter, appellant moved a representation to expunge the said remarks on 11.10.2005 and the same was rejected by defendant No.1 vide order dated 21.9.2007.

Defendants-respondents, in their written statement, averred that the annual confidential reports have been recorded by the competent authority-defendant No.,2 and the same were put up before the Committee constituted by the Board in its meeting on 25.7.2006. The Committee after considering the representation of the appellant and after affording personal hearing to him had rejected the said representation. The decision of the Committee was conveyed to the appellant vide letter dated 21.9.2007.

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

- 1.Whether the Annual Confidential Report of the plaintiff for the year 2003-04 is illegal, null and void etc. and expunged as prayed?OPP
- 2.Whether the suit is maintainable in the present form?OPP
- 3.Whether the suit is barred under the provisions of Haryana Co-operative Societies Act?OPD
- 4.Whether the suit is bad for want of notice under Section 124 of the Act?OPD
- 5.Whether the suit of the plaintiff is false and frivolous and liable to be dismissed as such?OPD
- 6.Relief"

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment and decree dated 9.6.2010 dismissed the suit of the plaintiff. The said judgment and decree were upheld in appeal filed by the appellant by the First Appellate Court vide judgment and decree dated 6.12.2012. Hence, the present appeal by the plaintiff.

I have heard the learned counsel for the appellant and have gone through the record available on the file carefully.

In the present case, adverse remarks were recorded in the annual confidential report of the appellant for the period from 1.4.2003 to 31.3.2004 and the same reads as under:-

“You are not intelligent and able to hold the post of Manager. Your honesty and integrity is doubtful. Your necessary performance is poor. Your attitude towards Officers/Officials of other castes and communities is undesirable. Your overall work has been assessed as “Below Average”.

The annual confidential remarks were recorded by the competent authority. The competent authority had seen the work and conduct of the appellant for the relevant period and had recorded the remarks in question. Recording of the annual confidential report, is in essence, a matter of subjective satisfaction of the officer concerned and the correctness thereof cannot be gone into by the Civil Court. The proper remedy for the aggrieved person is to file representation against the adverse remarks. The said remedy was duly availed by the appellant and the representation submitted by the appellant was dismissed by the Committee constituted by the Board

of the Administrator.

In the present case, appellant had retired on 6.10.2004, whereas, the adverse remarks in question were conveyed to the appellant on 31.5.2005 relating to the period 2003-2004. Learned trial Court rightly held that it was not clear as to what benefit appellant would have drawn by getting the remarks expunged. Learned counsel for the appellant, during the course of arguments, has submitted that in case the adverse remarks are expunged, then appellant would have been entitled to get the benefit of efficiency bar which fell due on 1.10.2004.

The argument raised by the learned counsel for the appellant is without any basis as appellant already stood retired on 6.8.2004 and could not earn the benefit of clearance of efficiency bar on 1.10.2004.

In the facts and circumstances of the present case, no substantial question of law arises in this case warranting interference by this Court.

Dismissed.

January 19, 2016
arya

(SABINA)
JUDGE