

102-2

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

RSA No.1278 of 2015

Date of decision: March 18, 2016

Brahma Nand

.....Appellant

Versus

Director General, State Transport, Haryana
and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. D.C. Dhaula, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration challenging the adverse remarks recorded against him in his Annual Confidential Report (ACR) for the year 2002-2003.

The case of the appellant in brief, was that he was working with the respondents as a conductor. Overall grading of the respondent in the ACR for the year 2002-2003 was assessed as average by the reporting officer. On false allegations of embezzlement, show-cause notice dated 16.11.2006 had been issued to the appellant. The adverse remarks in the ACR of the appellant for the year 2002-2003 were illegally recorded to settle personal scores.

Defendants, in their reply, averred that four cases of fraud/embezzlement were pending against the appellant. The General Manager being the reviewing authority agreed with the remarks recorded by the reporting officer. However, question with regard to integrity was left open and was to be

decided after finalization of the fraud cases. After the decision of all the four cases, the General Manager took the decision and it was proposed that the integrity of the appellant was doubtful. Show-cause notice dated 16.11.2006 was issued to the appellant and appellant submitted his reply dated 30.11.2006 to the show-cause notice. Vide order dated 18.04.2007, the integrity of the appellant was recorded as doubtful in the ACR for the year 2002-2003.

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

- “1. Whether the plaintiff is entitled to the relief of declaration to the effect that the act of the defendant in recording the alleged adverse remarks in case of plaintiff and order dated 18.4.2007 passed by defendant No.2 was illegal & discriminatory?OPP
2. Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for and to give, all the benefits to the plaintiff?OPP
3. Whether the suit is not maintainable in the present form?OPD
4. Whether the plaintiff has no cause of action to file the present suit?OPD
5. Whether the plaintiff has no locus-standi to file the present suit?OPD
6. Whether the plaintiff is badly barred by limitation?OPD
7. Whether the Civil court has got no jurisdiction to try and decide the present suit?OPD
8. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 17.08.2013

decreed the suit filed by the appellant-plaintiff. Appeal filed by the respondents was allowed by the First Appellate Court vide judgment/decreree dated 18.12.2014 and the judgment/decreree passed by the trial Court were set aside. Hence, the present appeal by the appellant-plaintiff.

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

The First Appellate Court while allowing the appeal has held that the order Exhibit D14 was passed on 18.04.2007, whereby, the integrity of the appellant was recorded as doubtful in his ACR for the year 2002-2003. However, the appellant had filed the suit in December 2010 challenging the order Exhibit D14. Thus, the suit filed by the appellant was clearly time barred. It has further been noticed by the First Appellate Court that the trial Court had taken the period of limitation on a mistaken belief that the order Exhibit D1 had been passed on 07.11.2009, whereas, the said order had been passed on 07.11.2002. Since the suit of the appellant was barred by limitation, the same was liable to be dismissed.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

**(SABINA)
JUDGE**

March 18, 2016
mahavir