

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

260

**RSA No. 3913 of 2016 (O&M)
Date of decision: 21.12.2016**

Om Parkash Gupta

....Appellant.

Versus

State of Haryana and another

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. V.B.Aggarwal, Advocate for the appellant.

P.B. Bajanthri, J. (Oral)

The appellant has questioned the orders of the trial and appellate court dated 23.09.2014 and 14.10.2015 respectively.

Appellant's grievance before the trial court is that he has been denied benefit of crossing efficiency bar which is due to him as on 01.09.1977. The respondents have denied without assigning any reason however the appellant is stated to have been subjected to disciplinary proceedings in the year 1980 and the same was dropped in the year 1991 and he has attained age of superannuation and retired from service on 31.01.2002. Whereas the suit was filed in the year 2010. Both the courts below have refused to entertain the grievance of the appellant with reference to service records and also maintainability of the suit. Since the grievance of the appellant is relating to extending benefit of crossing efficiency bar from 1977. Due to decline of crossing efficiency bar his pension has been reduced. Pension is drawn by the appellant every month therefore, it would be a continuing cause of action for the purpose of extending the benefit of efficiency bar.

Hence, the orders of the trial court and appellate court are set aside. The respondents are directed to re-examine the claim of the appellant in respect of efficiency bar as on 01.09.1977. Perusal of the appeal papers it is evident that as on 01.09.1977 no enquiry was pending and admittedly disciplinary proceedings were initiated in the year 1980 i.e. subsequent to the entitlement of crossing the efficiency bar. Therefore, the respondents are directed to examine the entire records and take a decision if the appellant is entitled for the benefit of crossing of efficiency bar from 01.09.1977 the same shall be extended. However, arrears shall be restricted to prior to filing of suit for the period of 3 years.

Appeal stands disposed of.

21.12.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No