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

RSA No.3225 of 2014

Date of decision: January 08, 2016

Bir Singh

.....Appellant

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vikram Singh, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for mandatory injunction challenging the order dated 30.05.2007, whereby, appellant was dismissed from service and order dated 21.08.2007, whereby, appeal filed by appellant against his dismissal order, was dismissed.

The case of the appellant, in brief, was that he was appointed as a Clerk with Municipal Committee, Kaithal on 21.07.1979 and worked upto the year 1993. On the abolition of Octroi in the State of Haryana in the year 1999, the appellant was absorbed as Gram Sachiv in the Department of Development and Panchayat, Haryana in January 2004. Appellant was served a charge-sheet that he had caused loss to the Department to the tune of ₹73,965/-. Appellant submitted his reply to the charge-sheet.

However, without considering the said reply, respondent No.2 appointed respondent No.3 as inquiry officer. The inquiry officer without following due procedure of law held that the charge levelled against the petitioner stood proved. Thereafter, appellant was served with the show-cause notice and appellant submitted his reply to the same. Vide order dated 30.05.2007, appellant was dismissed from service. Appeal filed by the appellant was dismissed vide order dated 26.08.2007. Hence, the suit was filed by the appellant.

Respondents in their written statement averred that the appellant had already challenged the impugned orders by filing CWP No.15213 of 2008 in this Court and the same was dismissed vide order dated 28.08.2008. Hence, the suit was not maintainable.

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

- “1. Whether the Order dated 30.05.2007 and 21.08.2007 are illegal, arbitrary, void, nonest and against the principles of natural justice, as prayed for?OPP
2. Whether the plaintiff is entitled to a decree for mandatory injunction, as prayed for?OPP
3. Whether the plaintiff has concealed the true and material facts from the court?OPD
4. Whether the Civil Court has no jurisdiction to try and entertain the present suit?OPD
5. Whether the suit is time barred?OPD

6. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 17.09.2012 dismissed the suit of the appellant. The said judgment/decreed passed by the trial Court were upheld by the First Appellate Court vide judgment/decreed dated 17.12.2013 in an appeal filed by the appellant. Hence, the present appeal by the appellant.

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

In the present case, admittedly, appellant had challenged the impugned orders dated 30.05.2007 and 21.08.2007 in this Court by way of CWP No.15213 of 2008 and the said petition was dismissed vide order dated 28.08.2008. In these circumstances, the Courts below rightly held that the suit filed by the appellant was liable to be dismissed as the impugned orders had been upheld by this Court in a writ petition filed by the appellant.

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

Dismissed.

**(SABINA)
JUDGE**

January 08, 2016
mahavir