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

RSA No.3919 of 2014

Date of decision: February 25, 2016

Inder Singh

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. K.S. Malik-I, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration challenging the order dated 25.04.2008, whereby, he was compulsorily retired.

The case of the appellant, in brief, was that he was appointed as a Conductor with Haryana Roadways. Defendant No.3 had passed the order dated 25.04.2008, whereby, appellant was ordered to be compulsorily retired on 30.04.2008. Appellant had been performing his duties to the best of his ability. The impugned order had been passed on the basis of average remarks recorded in the Annual Confidential Reports ('ACR' for short) of the appellant, although, the same could not be treated as adverse. In the ACR of the appellant recorded for the year 1998-1999, the integrity of the appellant had been described as doubtful. The allegation of embezzlement levelled against the appellant was

false. Narain Dutt, who was similarly situated as the appellant, had been permitted to continue in service beyond the age of 55 years. The impugned order has been passed without following due procedure of law.

Defendants in their written statement averred that the appellant had been appointed as a Conductor with the Haryana Roadways w.e.f. 14.11.1979 and his services were regularised w.e.f. 11.07.1980. Appellant was in the habit of committing embezzlement and so many reports of misconduct has been received against him. Several punishments had been awarded to the appellant. The summary of ACRs of the appellant as reproduced in Para-3 of the judgment of the First Appellate Court read as under:-

"Sr.No.	Year	Remarks Regarding Integrity	Overall Grading
1.	1997-98	Honest	Good
2.	1998-99	Doubtful	Average
3.	1999-2000	Honest	Average
4.	2000-2001	Honest	Average
5.	2001-2002	Honest	Good
6.	2002-2003	Honest	Average
7.	2003-2004	Honest	Good
8.	2004-2005	Honest	Good
9.	2005-2006	Honest	Good
10.	2006-2007	Honest	Average"

It was further averred in the written statement that the impugned order had been passed as the case of the appellant was not fit for extension on account of adverse entries recorded in his ACRs. Before passing the impugned order, show-cause notice was served on the appellant and he had filed reply to the same. Opportunity of personal hearing was also afforded to the appellant and after hearing him and

considering his past record, the impugned order was passed.

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

- “1. Whether the order dated 25.04.2008 passed by the defendant is wrong, illegal, null and void?OPP
2. If the above-said issue is to be prove, whether the plaintiff is entitled for decree of declaration with consequential relief of permanent injunction on the grounds as mentioned in the plaint?OPP
3. Whether the suit of the plaintiff is not maintainable?OPD
4. Whether the suit of the plaintiff is false and frivolous?OPD
5. Whether the suit of the plaintiff is liable to be dismissed for want of notice under Section 80 CPC?OPD
6. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 16.05.2011 dismissed the suit of the appellant-plaintiff. The said judgment/decreed passed by the trial Court were upheld in an appeal filed by the appellant-plaintiff by the First Appellate Court vide its judgment/decreed dated 20.01.2014. 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.

Admittedly, appellant was working as a Conductor

with the respondents. Vide order dated 25.04.2008, appellant was ordered to be compulsorily retired on attaining the age of 55 years. In the column of integrity in the ACR of the appellant for the year 1998-1999, it had been recorded by the competent authority that the same was doubtful. It has been noticed by the First Appellate Court that as per Exhibit P12, in the ACR of the appellant for the year 1998-1999, it was mentioned in column No.16 that the appellant was involved in fraud case amounting to ₹101/- and in another case amounting to ₹22/-. So far as the allegation against the appellant qua fraud to the tune of ₹101/- is concerned, the Inquiry Officer exonerated the appellant vide report Exhibit P28. However, in pursuance to the said inquiry report, the competent authority had not passed any order. So far as the fraud relating to ₹22/- is concerned, there was nothing on record that the appellant had been exonerated qua the said allegation. Thus, the adverse remarks recorded in the ACR of the appellant for the year 1998-1999, had not been expunged by the competent authority. It was also the case of the appellant that Exhibit P12 had not been conveyed to him, but it has been noticed by the First Appellate Court that as per acknowledgment Exhibit P15, appellant had duly received the adverse remarks recorded against him in ACR for the year 1998-1999 through registered post.

It has been noticed by the Courts below that as per Exhibit D1, ten punishments were inflicted on the appellant

during the period of his last ten ACRs and during his entire service, appellant had been inflicted 58 punishments from time to time.

Thus, the Courts below rightly came to the conclusion that the service record of the appellant was not above board. Before passing the impugned order, show-cause notice was issued to the appellant and he submitted his reply to the same. Appellant was also provided opportunity of personal hearing. Thereafter, competent authority passed the impugned order after considering the submissions of the appellant as well as his service record.

In the facts and circumstances of the present case, the Courts below had thus, rightly held that the impugned order dated 25.04.2008, whereby, appellant had been ordered to be compulsorily retired from service, was liable to be upheld.

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

Dismissed.

**(SABINA)
JUDGE**

February 25, 2016
mahavir