

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

RSA No.6892 of 2016 (O&M)
Date of Decision: 30.1.2017

Uttar Haryana Bijli Vitran Nigam Ltd. And Others

...Appellants

Versus

Suresh Pal

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Kiran Kumar, Advocate for the appellants

RAJIV NARAIN RAINA, J. (Oral)

This appeal by the Nigam arises out of the judgments of concurrence passed by the courts *a quo* decreeing the suit of the plaintiff-respondent to the effect that he was held entitled to promotion to the higher post on the ground of non-communication of adverse remarks in the Annual Confidential Reports for the relevant year which had been wrongly used to deny him promotion. The adverse remarks were later on expunged by the defendant-Nigam itself clearing plaintiff's way to promotion. Either way, the plaintiff must succeed as he has in his endeavour to seek justice a decree in his favour.

This appeal has been filed by the UHBVNL very casually and without just cause or valid reason or genuine grounds only to get the stamp of approval of this Court against the unexceptionable concurrent findings of fact returned by the Courts below after paying due regard to the settled legal position on the subject indicating that uncommunicated remarks are not to be used against an employee to deny him promotion and if the adverse remarks become non-existent by employer on re-consideration and stand expunged then relief flows almost automatically when junior is

promoted by ignoring senior. If the Nigam has expunged the remarks, as recorded in the order of the trial court and the fact is not disputed, as it cannot be, then the Nigam had absolutely no business to file this appeal to waste the time of this Court as though it has nothing better to do and that too, in an appeal presented after a delay of 197 days without sufficient cause shown or explanation furnished for the huge delay except relying on the infamous bureaucratic red tape. See, on limitation Office of the Chief Postmaster General v. Living Media India Ltd. and others, (2012) 3 SCC 563.

In view of the above, this frivolous and lifeless appeal is dismissed on merits in limine as well as being time barred but not without imposing exemplary costs assessed at ₹ 1.00 lac to be paid by the appellant to the Mediation and Conciliation Centre annexed to this Court within one month and the receipt produced on record thereafter within reasonable time. The responsibility lies heavier on the State and its instrumentalities to desist from litigating without any qualms and without good conscience or able legal advice.

(RAJIV NARAIN RAINA)
JUDGE

30.1.2017
MFK

Whether speaking/reasoned

Yes

Whether Reportable

No