

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-1507-C-2017 IN/AND
RSA-960-2015 (O&M)
Date of decision : 15.02.2017

State of Punjab and another

...Petitioners

Versus

Rajinder Kumar Sood

...Respondent

CORAM: HON'BLE MR. RAJIV NARAIN RAINA

Present: Mr. Inder Pal Goyat, Additional Advocate General, Punjab,
for the applicant/appellant.

RAJIV NARAIN RAINA J. (ORAL)

CM-1507-C-2017

This is an application for advancing the date of hearing as the Execution Application is fixed for 06.03.2017. The matter is taken up on motion board today itself for final disposal.

Main Case

The plaintiff respondent was not permitted to cross the efficiency bar on the basis of adverse remarks recorded in the Annual Confidential Reports of the appellant for the period relevant to the consideration. These remarks for which he has been ignored in quote read as follows:-

- “1. You have loose control in accounts matters.
2. You misused powers in measurement and billing.
3. You are uneconomical.
4. You have loose control on labour.
5. Your reputation for integrity is not good.
6. You performed duty in a delinquent manner.
7. You are not trust worthy.
8. You are not recommended for promotion.
9. You are below average.

And similar is your performance from 1982-83 (11.5.1982 to 17.12.1982) which is as under:-

Your integrity is poor. You have mis-appropriated more than a lac of rupees in connivance with Sub Divisional Engineer.”

This Court is rather stupefied at the loose statements recorded in the ACR to deny the plaintiff respondent the claimed benefit. General statements without tangible evidence to support are untrustworthy of giving credit. They lead to nowhere. Either an employee's financial and intellectual integrity is above board or is zilch. Integrity can never be classified as poor or not satisfactory. There are no pleadings to dispel the integrity quotient of the bearer of remarks. Either you are corrupt or you are not. If the plaintiff misappropriated money in connivance with Sub Divisional Engineer it is a serious matter which deserves corroboration by some evidence as it constitutes a charge of corruption. There is no reference to any incident from which a reasonable inference can be drawn that the plaintiff connived with another officer whose role, if any, also required to be enquired into.

If the respondent was accused of misappropriation of lakhs of rupees in connivance with the Sub-Divisional Engineer then the remarks recorded have been made behind his back without confronting the employee with incriminating material likely to be used against him at a regular enquiry, so that he may have an opportunity to refute such stinking remarks which potentially could ruin a career. I wonder who the reporting authority was and what he held against the subject, who went on to record opinion recklessly that the respondent did not deserve promotion. Was he was the promoting authority himself? That was the work of the Departmental Promotion Committee and not of the reporting officer, unless there was a specific column and the reporting authority was tasked to do so to form an independent opinion for the benefit of the DPC. The remarks do not even appear to be in subjective satisfaction on objective criteria and I have no doubt in mind that the work of both the courts below in decreeing the suit and dismissing the first appeal are unexceptionable

and deserve to be upheld. I have no reason to keep this appeal pending without final decision or to issue notice on the application merely because the execution court has been moved for implementation of the decree. There is no question of stay in this State appeal which has no merit. No substantial question of law is involved in this case. And the interpretation placed by the courts below on the adverse remarks withholding crossing of the efficiency bar is perfectly in order. Grave injustice was done to the plaintiff and remedied with the success of the suit.

The notices issued on the application and the main appeal is recalled. No substantial question of law arises even under Section 100 of the Code of Civil Procedure or under Section 41 of the Punjab Courts Act, 1918 for determination on the regular second appeal side of this Court when findings are concurrent and a reasonable view has been taken after appreciating the evidence on record.

The appeal is devoid of merit and is ordered to stand dismissed with costs.

(RAJIV NARAIN RAINA)
JUDGE

15.02.2017
adhikari

Whether speaking/reasoned : *Yes*
Whether Reportable : *No*