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

RSA-5862-2014 (O&M)

Date of Decision : 17.11.2017

Naresh Kumar

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sumeet Jain, Advocate
for Mr. Pankaj Jain, Advocate
for the appellant.

Mr. Anil Mehta, D.A.G., Haryana.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the judgment of the lower appellate court reversing that of the trial court and thereby dismissed the suit of the appellant.

Brief facts of the case are that the appellant filed a suit for a declaration that the order withdrawing Ist ACP granted w.e.f. 24.11.1999 and the recovery thereof was illegal. The trial court having decreed the suit the State went up in appeal. The appellate court held that the appellant had remained suspended w.e.f. 20.05.1997 till 27.05.1997 and an inquiry was initiated against him under Rule 7 of the Haryana Civil Services Rules and further that the ACR for the year 2001-2002 was doubtful. On this

appeal and that is how the appellant is before this Court.

On 21.04.2016 this Court passed an order directing the State to ascertain as to what happened in the inquiry which was referred to by the appellate court and also whether any notice was issued before withdrawing the ACP which had already been granted. Affidavit dated 21.07.2016 has been placed on record wherein it has been informed that no notice was issued before the ACP was withdrawn. Further no finding had been recorded in the inquiry proceedings and same had been abandoned.

Counsel for the appellant has argued that in these circumstances it cannot be said that his service record upto 24.11.1999 was not good and the lower appellate court erred in relying upon the adverse entry of the ACR for the year 2001-2002.

Learned Deputy Advocate General is not in a position to deny that the inquiry did not result in a finding against the appellant and that the ACR for the period 2001-2002 was not relevant for considering the Ist ACP which was granted w.e.f. 24.11.1999 .

In the circumstances, the appeal has to be allowed. Ordered accordingly. The judgment of the lower appellate court is set aside and that of the trial court is restored.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

November 17, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No