

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

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Regular Second Appeal No.2105 of 2017 (O&M)
Date of Decision: November 26th, 2019

State of Haryana through Collector, Fatehabad and others

...Appellants

Versus

Ram Chander

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vishal Garg, Additional Advocate General, Haryana and
Mr. Ravi Partap Singh, Assistant Advocate General, Haryana,
for the appellants.

Mr. Vivek Khatri, Advocate
for the respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 20.05.2016 passed by the Civil Judge (Junior Division), Fatehabad, whereby suit for declaration preferred by Ram Chander-respondent herein, working as Veterinary Compounder, who has been prematurely retired because of four adverse Annual Confidential Reports out of the last ten which were taken into consideration on attaining the age of 55 years, has been decreed on the ground that the adverse Annual Confidential Reports for the years 2007-08 and 2009-10 have not been conveyed to the respondent-plaintiff, meaning thereby that the two adverse ACRs, which have been taken into consideration by the appellants-defendants for calculating four adverse ACRs bringing it down to 60% good ACRs, cannot sustain as the minimum benchmark prescribed for an employee to be retained in service is 70% good, appeal against which preferred by the appellants-defendants stands dismissed vide judgment dated 14.03.2017 passed by the Additional District Judge-I, Fatehabad.

issue involved in the present case is limited to the extent of conveying or otherwise of the Annual Confidential Reports to the respondent-plaintiff. Referring to the evidence of the official witnesses, who had appeared as also the expenses register (Exhibit D-6), he contends that the Head Office had conveyed the Annual Confidential Reports to the respondent-plaintiff. He contends that the said reports were sent to the Sub Office, where the respondent-plaintiff was to report and since the said reports were sent by the Head Office, presumption of they having conveyed to respondent-plaintiff should be drawn and, therefore, the findings as recorded by the Courts below cannot sustain and deserve to be set aside.

3. On the other hand, learned counsel for the respondent-plaintiff has asserted that merely because the adverse Annual Confidential Reports for the years 2007-08 and 2009-10 were sent to Kalram, Sub Office, would not be enough as nothing has been produced on record as evidence either to show that it was actually received at Kalram Sub Office or the Kalram office had ever conveyed to the respondent-plaintiff.

4. This contention of learned counsel for the respondent-plaintiff could not be rebutted by learned counsel for the appellants.

5. Having considered the submissions made by the counsel for the parties and keeping in view the fact that there is no evidence on record which would indicate that adverse Annual Confidential Reports for the year 2007-08 and 2009-10 were ever conveyed to the respondent-plaintiff, the findings as recorded by the Courts below cannot be faulted with. The communication which has been sent by the Head Office to the Sub Office i.e. Kalram, cannot be said to be having been duly conveyed to the respondent-plaintiff in the absence of any evidence that it was after

receipt further conveyed to the respondent-plaintiff by the Kalram office.

6. In view of the above, the findings as recorded by the Courts below cannot be faulted with and the principles which have been made applicable for coming to a conclusion that the respondent-plaintiff has wrongly been retired prematurely by considering the adverse Annual Confidential Reports which were never conveyed to the respondent-plaintiff and, therefore, not sustainable, are based upon settled principles of law.

7. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

8. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

9. In the light of the dismissal of the appeal, all pending applications stand disposed of as infructuous.

November 26th, 2019

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No