

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

**LPA-399-2021 (O&M)  
Date of decision: 10.11.2021**

**The District & Sessions Judge, Hisar**

**.... Appellant**

**Versus**

**Yogender Kumar**

**.... Respondent**

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI  
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Vikas Chatrath, Advocate  
for the appellant.

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**AJAY TEWARI, J (ORAL)**

This appeal has been filed against the judgment and order dated 12.02.2021 of the learned Single Judge, whereby the compulsory retirement of the respondent was set aside while granting liberty to the appellant to pass a fresh order in accordance with the Rules after grant of opportunity of hearing.

Limited argument made by the learned counsel is that even though the learned Single Judge has granted liberty to pass a fresh order, yet in paragraph 8 of the order, there are some observations on merits which would continue to hold the field. They are to the following effect:-

*“Although, in the said ACR, it has been endorsed that the integrity of the petitioner is doubtful, a singular instance in my considered opinion would not be sufficient to conclude that from the record it stands established that the petitioner is corrupt or dishonest.”*

We find some merit in the argument. Once the appellant had been granted opportunity to pass a fresh orders it could not have been hamstrung by any observation on merits by a superior Authority (which could in turn influence the finding of the competent authority).

In the circumstances, meanwhile dismissing the appeal, it is directed that the observation extracted above would have no bearing on the decision of the issue and the competent authority would be entitled to pass a fresh order in accordance with law, as directed.

Since the main case is decided, pending applications, if any stands disposed off.

**( AJAY TEWARI )**  
**JUDGE**

**(PANKAJ JAIN)**  
**JUDGE**

**10.11.2021**  
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No