

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(247) CM-377-C-2020,
CM-375-C-2020,
CM-378-C-2020 and
CM-184-C-2022 in/& RSA-148-2020
Date of Decision : March 14, 2023

Ram Sarup

.. Appellant

Versus

State of Haryana and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Aditya Yadav, Advocate, for the applicant-appellant.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-377-C-2020

Present application has been filed for condonation of delay of
352 days in filing the appeal.

Notice of the application was already issued.

Learned counsel for the respondents-State raises no objection
for the grant of said prayer as raised in the present application.

Keeping in view the averments made in the application, the
same is allowed and delay of 352 days in filing the appeal is condoned.

CM-375-C-2020

As prayed for, the application is allowed.

Delay of 30 days in re-filing the appeal is condoned.

CM-378-C-2020

As prayed for, the application is allowed.

CM-184-C-2022

Present application has been filed for impleading legal representatives of the appellant-Ram Sarup, who unfortunately died on 21.04.2021, during the pendency of the appeal.

Notice of the application to the counsel opposite.

Ms. Vibha Tewari, learned Assistant Advocate General, Haryana, accepts notice on behalf of the respondents-State. She raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. Legal heirs of the appellant, the details of whom are given in para 2 of the application, are allowed to be impleaded in the present appeal and the amended memo of parties attached with the present application is taken on record.

RSA-148-2020

Present Regular Second Appeal has been filed challenging the judgment and decree dated 29.05.2018 of the lower Appellate Court to the extent, the claim of the appellant for setting aside the Annual Confidential Remarks for the year 2005-2006 has not been accepted on the ground that the said relief is time barred.

Learned counsel for the appellant argues that though the adverse remarks were recorded in the ACR for the year 2005-2006 regarding the integrity doubtful but as there was no material to support the said remarks, they were liable to be expunged and the lower Appellate Court did not appreciate the said aspect and rejected the claim of the

appellant only on the ground that the adverse confidential report of the year 2005-2006 could not have been challenged after a period of ten years especially when the appellant did not make any representation against the said report despite the receipt of the said adverse remarks.

Learned counsel for the appellant submits that the Court below has misdirected itself and had not taken into consideration that there was no time limit for filing the representation, hence, once the adverse remarks of the year 2005-2006 were taken into consideration so as retire the appellant pre-maturely, cause of action had accrued only at that relevant time, hence, it cannot be said that the challenge to the Annual Confidential Report for the year 2005-2006 was time barred in any manner and the judgment of the lower Appellate Court is liable to be modified accordingly.

Learned counsel for the respondents-State submits that once the adverse remarks in Annual Confidential Report for the year 2005-2006 were conveyed to the appellant and he did not respond to the said remarks by filing any representation means that he accepted the recording of the remarks by the officer concerned and the same attained finality. Learned counsel for the respondents-State further submits that the entry of integrity doubtful remains in the ACR for the year 2005-2006, the same was rightly taken into consideration for taking action against the appellant for compulsory retirement. Learned counsel for the respondents-State further submits that the ACR for the period 2005-2006 could not have been challenged in the year 2015 being time barred as the said report could have only been challenged within a period of three years of the conveying of the adverse remarks.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The conceded facts are that there are adverse remarks in the Annual Confidential Report of the appellant-plaintiff for the year 2005-2006 regarding integrity doubtful. It is also a conceded position that the said adverse remarks were conveyed to the appellant-plaintiff immediately after recording of the same and he did not choose to even file a representation for controverting his assessment by the Officer concerned, hence, the said ACR for the year 2005-2006 attained finality.

Once, there was no representation also filed against the recording of the adverse remarks in the Annual Confidential Report, the appellant has accepted the said remarks to be true and the same attained finality, same could not have been challenged after a period of ten years. In case, the appellant was aggrieved against the said remarks, he could have filed a representation or could have challenged the same within a period of limitation provided for challenging an order. In the absence of any such action taken, it cannot be said that the adverse remarks already on record, are to be treated as invalid especially when the said remarks attained finality.

Once, the challenge to the adverse remarks in the ACR for the year 2005-2006 was beyond limitation, the order passed by the lower Appellate Court rejecting the said claim of the appellant cannot be treated to be perverse or against the settled principle of law. No perversity has been brought to the notice of this Court qua the judgment and decree of the lower Appellate Court.

Keeping in view the above, no ground is made out for any
interference by this Court in the present Regular Second Appeal.

Dismissed.

March 14, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No