

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

(240)

RSA-3807-2017 (O&M)

Date of Decision : May 04, 2023

State of Haryana and others

.. Appellants

Versus

Dalbir Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana,
for the appellants.

Mr. Saksham Kanhiya, Advocate, for
Mr. Sandeep Singal, Advocate, for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present Regular Second Appeal has been filed by the appellants-State challenging the decision of the Lower Appellate Court dated 06.02.2017 by which, the suit filed by the respondent-plaintiff has been allowed so as to grant him the benefit of first ACP from the year 2001 and second ACP from the year 2011.

2. Learned counsel for the appellants-State submits that the ACP has to be granted keeping in view the good service record coupled with the fact as to whether any punishment has been imposed upon an employee concerned during the period of consideration so as to take away his right to seek the ACP keeping in view the nature of punishment awarded.

3. Learned counsel for the appellants-State further submits that in the Ex.D-3 to D-5, the detail of the punishment has already been given which evidence has already been ignored by the lower Appellate Court while passing the impugned judgment and decree dated 06.02.2017, hence, the said judgment is perverse to the facts and evidence on record.

4. Learned counsel for the respondent-plaintiff, on the other hand, submits that as far as the Annual Confidential Reports of the respondent-plaintiff are concerned, the same contains nothing adverse so as to deny him the benefit of ACP but on being asked as to whether, punishments were imposed upon the respondent-plaintiff during the period for which ACP is being sought for, learned counsel for the respondent-plaintiff concedes the said factum but submits that those punishments will not come in way as those punishments were minor in nature.

5. On being asked to point out the findings being recorded by the Court below to the said extent, learned counsel for the respondent-plaintiff submits that the punishments have not been discussed by the Courts below while passing the judgment and decree dated 06.02.20217.

6. Keeping in view the fact that it is a conceded position that the relevant piece of evidence i.e the punishments imposed upon the respondent-plaintiff has not been taken into account by the lower Appellate Court so as to arrive at a decision whether those punishments will give the jurisdiction to the Department to hold the ACP or not, hence, the order passed by the lower Appellate Court dated 06.02.2017 is set aside and the case is remanded back to the lower Appellate Court to pass a fresh order after considering all the aspects including the punishments imposed upon

the respondent-plaintiff by recording a specific finding whether, in view of

all the punishments and the Annual Confidential Report of the respondent-plaintiff, he is entitled for the grant of first ACP w.e.f. 2001 and second ACP w.e.f. 2011.

7. The present Regular Second Appeal is disposed of in above terms.

CM-9434-C-2017

As the main appeal has been disposed of, present application also stands disposed of.

May 04, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No