

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-487-1996 (O&M)
Reserved on: 11.12.2023
Date of decision: 05.01.2024

GURCHARAN SHAH SINGH

..Appellant

Versus

HARYANA WAREHOUSING CORPORATION & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.C. Arora, Advocate
for the appellant.

Mr. Ashwani Talwar, Advocate
and Mr. Aashish Bhagat, Advocate
for the respondents.

ANIL KSHETARPAL, J.

1. In this regular second appeal, the plaintiff assails the correctness of the judgment passed by the First Appellate Court, which in turn has reversed the judgment of the trial Court. The plaintiff filed a suit for grant of decree of declaration to the effect that adverse remarks recorded in the Annual Confidential Report (hereinafter referred to as the 'ACR') for the year 1982-83 and 1983-84 are illegal, null and void and liable to be quashed. Similarly, the orders passed by the competent authority on 25.06.1986 and 23.02.1987, while stopping him from crossing the efficiency bar w.e.f 01.04.1984, 01.04.1985 & 01.04.1986, are also liable to be set aside.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. At the relevant time, the appellant was working as a Godown Keeper at a State Warehouse No.1, Rohtak. In the ACR for the year 1982-83, the integrity of the appellant was recorded as doubtful. Similarly, in the ACR for the year 1983-84, certain adverse remarks were made. The appellant filed a representation against the ACR for the year 1982-83, which was considered and rejected by the competent authority. He did not file any representation against the adverse ACR for the year 1983-84. By a specific order passed on 10.07.1986 and 23.02.1987, he was not permitted to cross the efficiency bar. He filed the suit on 11.01.1989, which was decreed, however, on reappraisal of evidence, the First Appellate Court reversed the judgment passed by the trial Court.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the requisitioned record, which is available in the digital form.

5. The learned counsel representing the appellant has submitted that the First Appellate Court has erred in reversing the judgment of the trial Court in as much as the adverse remarks for the year 1982-83, were conveyed to him only on 26.04.1984. He submits that such remarks are required to be conveyed forthwith.

6. This Court has considered the submissions of the learned counsel representing the appellant.

7. As already noticed, the integrity of the appellant was recorded as doubtful in the ACR for the year 1982-83. Even, the adverse remarks were recorded in the ACR for the year 1983-84. The ACRs are recorded by the superior officers after taking into account the subjective assessment of work and conduct of an employee. If the government servant is aggrieved by an adverse entry, he has the opportunity to make a representation, which

shall be considered by the appropriate authority. In absence of evidence to establish that such reports were not recorded in a bonafide manner, the Court is not expected to interfere. Undoubtedly, the adverse remarks shall be conveyed to the employees promptly, however, that itself cannot be made the basis to ignore them. Moreover, once an opportunity of filing the representation has been given to the employee, the principles of natural justice have already been followed. Furthermore, the appellant has failed to show any prejudice caused to him.

8. Keeping in view the aforesaid discussion, the appeal lacks merit.
9. Hence, dismissed accordingly.
10. All the pending miscellaneous applications, if any, are also disposed of.

January 05th 2024

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No