



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 1152 of 2024 (O&M)

Date of Decision: 08.05.2024

Rohtash Singh

.....Appellant

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI, JUDGE

Present : Mr. Dilbagh Singh, Advocate, for the appellant.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

The present appeal arises out of the order dated 05.04.2024 passed by the learned Single Judge in Civil Writ Petition No. 7756 of 2024 whereby the challenge to the impugned order dated 12.01.2017 (Annexure P-5) passed by the respondents was rejected by the learned Single Judge. Vide the said order, the application for expunging of the adverse remarks for the period 01.04.2005 to 31.08.2005 had been rejected by the Director, Women & Child Development Department, Haryana, Panchkula after giving personal hearing to the appellant on 15.12.2016. Resultantly, on account of that, an order dated 24.03.2023 (Annexure P-4) was passed by the authorities whereby the claim of the appellant-petitioner for grant of 2nd ACP w.e.f. March, 2014 had been rejected.



2. Learned Single Judge after noticing the fact that the representation filed by the appellant-petitioner had been rejected in the year 2017 and the petitioner being in service had chosen not to challenge the said representation till he retired from service on 30.04.2022. In the circumstances, it was held that having not challenged the said entries for a period of seven years before filing the present writ petition, the writ petition was not liable to be entertained.

3. A perusal of the paper book would go on to show that the appellant's case is based on the fact that he had been given liberty vide order dated 10.01.2023 (Annexure P-2) passed by the learned Single Judge to represent his case before the authorities for grant of benefit of 2nd ACP w.e.f. March, 2014 when he had filed Civil Writ Petition No. 4875 of 2017. Therefore, he submits that while disposing of the said writ petition and while noticing that the benefit was being granted from 01.04.2016, he had a right as such to file the representation. In such circumstances, it is the contention that the order dated 24.03.2023 (Annexure P-4) now passed rejecting his claim is not justified whereby it was communicated to him that on account of his adverse entries in his ACRs of the years 2005-06, a speaking order had already been passed on 12.01.2017 by the respondents. Apparently, he filed Civil Writ Petition No. 21190 of 2017 also challenging his juniors promotion on the ground that he had been denied consideration because of his bad ACR but he choose not to challenge the order dated 12.01.2017.

4. A perusal of the speaking order dated 12.01.2017 (Annexure P-5) would go on to show that the appellant was heard personally on 15.12.2016 but he had chosen not to challenge the said order. He then filed Civil Writ Petition No. 10390 of 2023. Apparently, the said writ petition was withdrawn by the appellant on 26.07.2023 whereby the same order dated 12.01.2017 was

challenged. It is not disputed that the said writ petition was withdrawn to avail an alternative remedy. The same reads as under:-

“Learned counsel for the petitioner submits that the present petition may be disposed of having been not pressed, at this stage with liberty to the petitioner to avail of alternative remedy by filing appropriate appeal/representation against the impugned order before the concerned higher Authority.

Ordered accordingly.”

5. In such circumstances, having withdrawn the said writ petition, we are of the considered opinion that the second writ petition on the same cause of action, which has now been decided by the learned Single Judge would not even be maintainable. It is also to be noticed that earlier CWP No. 21190 of 2017 was also filed by the appellant wherein also there is no mention of the order passed on 12.01.2017 and the challenge was only that his juniors were being promoted. An innocuous relief was taken to pass a speaking order from this Court. It is thus apparent that the appellant-petitioner has been coming time and again to this Court and withholding the fact that the order dated 12.01.2017 was also already in force whereby hearing had been given to him and adverse entries have been upheld.
6. In the circumstances, we do not find any valid reason as such to interfere in the order passed by the learned Single Judge who had dismissed the writ petition on the ground of delay. Resultantly, the appeal is dismissed. Pending applications, if any, also stand disposed of.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

08.05.2024
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No