

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

CWP No.11646 of 2011(O&M)

Date of decision: 5.11.2015

Satwant Singh

... Petitioner

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.K. Malik, Sr. Advocate, with
Mr. T.S. Dhull, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl.A.G., Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

Challenge in this petition is to order dated May 27, 2011 by which the petitioner has been compulsorily retired from service of the respondent department by the Conservator of Forests, Punjab. Aggrieved by the order of compulsory retirement, the petitioner preferred an appeal to the Chief Conservator of Forest (Hills), Punjab, SAS Nagar, who vide order dated 28/30.6.2011 rejected the appeal. This is how the petitioner has approached this Court praying that the compulsory retirement order is erroneous and deserves to be set aside as it is based on a fallacious reason, which is explained hereafter.

A few facts necessary for determination of this Court are that the petitioner was promoted on August 17, 2005 as a Forester (Class III) on the recommendation of Departmental Promotion Committee. His service record justified the promotion. The service record including the

ACRs post period of promotion were also either good or very good. However, for the year 2009-10, the reporting authority graded the petitioner as 'very good' but the reviewing authority put a note on the ACR that there are some complaints against the petitioner.

These alleged complaints were processed by the department and as a consequence the petitioner suffered two charge sheets served on him. The first charge-sheet was issued on March 17, 2008 while the other was issued on September 21, 2010. In the inquiry conducted on both the charge sheets, the charges were not proved and the petitioner was declared innocent of the charges vide separate orders dated January 8, 2014 and May 5, 2014. These orders cleared all doubts and misgivings and the hurdles placed before the petitioner were removed by the action of the department on the conclusion of inquiries in his favour which exonerated him of the false complaints made.

However, the pending charge-sheets were used against the petitioner to order his compulsory retirement from service by the impugned order passed under the Punjab Civil Service Rules and the rules applicable to compulsory retirement. The petitioner was paid three months salary in lieu of notice and exited out of service.

Aggrieved by the order of the compulsory retirement, the petitioner has approached this Court through the present petition. This Court by an interim order dated May 28, 2012 stayed the operation of the impugned order and that is how the petitioner continued to serve under the interim dispensation. The Court noted in the interim order the issue involved which was whether the remark “complaint have been received”

can be called a remark by which the integrity of the employee can be said to be doubtful. During the pendency of this petition and in the currency of the interim order, the petitioner while serving reached the age of superannuation on June 30, 2015 and would be deemed to have retired from service but for clearances that can only result and impediments removed from the way to normal retirement by the final orders as may be passed in this case.

Mr. Malik, learned Senior counsel appearing for the petitioner submits that while the petitioner was continuing to serve he was paid salary but the arrears of full salary were not paid to him from July 2011 to May 2012 from the date he was boarded out of service and till the interim stay order was issued by the co-ordinate bench.

Mr. Manuja learned Additional Advocate General, Punjab appearing for the State has brought the original record in Court. The same has been produced and has been read out by the learned Law Officer in its material parts and in the main it supports the stand of Mr. Malik that in fact there was actually nothing in the way of the petitioner to have invited an order of compulsorily retirement.

In view of the position obtaining on the Government record and the fact that the petitioner has been fully exonerated of the charges levelled against him and he has been found innocent of the complaints which stand falsified, the lose remarks made by the reviewing authority were absolutely uncalled for and have to be quashed by writ of certiorari. No other blemish remains on the service career of the petitioner throughout to otherwise justify an order of compulsorily retirement other

than the subject matter.

In view of above, nothing further remains to be adjudicated in this case and therefore, the writ petition is allowed. The impugned orders dated 27.5.2011 and 28/30.6.2011 are quashed. The petitioner will be deemed to have retired from service on superannuation with every right to service pension and pensionary dues. He is also held entitled to the arrears of full salary and allowances from July 2011 to May 2012, which will be calculated and paid to the petitioner within two months from the date of receipt of certified copy of this order. This amount will carry interest @12%. It will be open to the Government to recover the element of interest from both the officers that passed the impugned orders so that the State exchequer does not suffer for the unlawful actions especially of the reviewing authority, who made extraneous comments on the ACRs of the petitioner which unfortunately attempted to give false colour of integrity doubtful for the year 2009-10 and led to the litigation forced on the petitioner.

(RAJIV NARAIN RAINA)
JUDGE

5.11.2015
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