

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

Civil Writ Petition No.24145 of 2013

Date of Decision: May 19, 2015

Maan Singh

...Petitioner

Versus

State of Haryana & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Suresh Ahlawat, Advocate,
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the order dated 3.9.2012 (Annexure P-5), whereby the petitioner has been compulsorily retired and the show cause notice for dismissal from service has been dispensed with owing to the fact that some disciplinary proceedings are pending.

Mr.Suresh Ahlawat, learned counsel appearing for the petitioner contends that the order of compulsory retirement is vitiated in law, much less, illegal and arbitrary as the authorities have not given three months notice as envisaged under Rule 3.26 of the Punjab Civil Service Rules Vol.I, Part I as applicable to the State of Haryana (for short “the

Rules”) and, therefore, the said order is not sustainable in the eyes of law.

Mr.Hitesh Pandit, learned Additional Advocate General, Haryana appearing on behalf of the State submits that the petitioner was charge-sheeted for commission of certain irregularities and the enquiry report, proved the charges against the petitioner and instead of taking any harsher action against the petitioner, he has been compulsorily retired and, therefore, the service of show cause notice of three months has been dispensed with.

I have heard the learned counsel for the parties and appraised the paper book.

The operative part of the order, whereby the services of the petitioner have been dispensed with reads thus:-

“As he is being compulsorily retired, show cause notice for dismissal from service may not be issued at the movement. However, pending disciplinary proceedings may be revived if he joins back the services due to any order in appeal or otherwise.”

Sub-rule (d) of Rule 3.26 of the Rules provides that before any action is taken against an employee for compulsory retiring or not retaining him in service, the Government employee should be given a notice of not less than three months in writing or three months' pay and allowances in lieu of such notice. In the instant case, the respondent-authority did not adhere to the aforementioned provisions inasmuch that neither a three months' notice had been issued nor three months pay and allowances have been given to the petitioner and, therefore, the order, as per the aforementioned rule is

illegal, arbitrary, much less, erroneous.

The petitioner has also not been communicated any adverse remarks and the Appellate Authority by upholding the order of compulsory retirement has given reference to the adverse remarks, which are below average. While considering the factum of not retaining a Government employee in service, the Government employee must not have 70% or more good record. However, no such reason has been given in the order that the petitioner did not have 70% or more good record. In the absence of any reason given in the order of compulsory retiring the petitioner, the impugned order is not sustainable and is hereby quashed. The authorities shall adhere to the provisions of Rule, ibid, and as well as the law before taking any action against the petitioner.

Accordingly, the writ petition is allowed.

May 19, 2015
ramesh

(AMIT RAWAL)
JUDGE