

LPA No. 1141 of 2015. [O&M]
Date of Decision: 03rd August, 2015.

State of Haryana & Anr. Respondents.

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The appellant [since deceased and represented by his legal heirs] is aggrieved by the order dated 30.04.2015 of the learned Single Judge dismissing his writ petition in which he challenged the order of his compulsory retirement passed in public interest.

[3]. The above stated Rule enables “the Competent Authority to retire a Government employee from service after giving him notice

of not less than three months in writing or pay and allowances in lieu thereof, if it is of the opinion that it is in public interest so to do....”.

[4]. It is undeniable that the State of Haryana vide instructions dated 06.08.1983 has laid down that only those officers shall be retained in service beyond 55 years who earn 70% or above 'good' reports.

[5]. These instructions were at one point of time struck down by a Division Bench of this Court in **K.K.Vaid v. State of Haryana & Ors., 1990[1] Current Law Journal, 699** but that judgment was over-ruled by the Full Bench in **Daya Nand Vs. State of Haryana & Ors., 1995[2] RSJ, 55**, laying down that the subject instructions were not contrary to Rule 3.26[a] and [d] of the Rules.

[6]. Learned Single Judge considered the appellant's service record with reference to the instructions dated 06.08.1983 and has concluded that since he earned only 62% good reports as against the requirement of 70%, the order passed by the Competent Authority does not call for any interference.

[7]. We have heard learned counsel for the appellant and gone through the record.

[8]. It is contended that the average reports reproduced by the learned Single Judge in a tabulated form pertaining to the years 1986-87 and 1987-88 were not conveyed to the deceased, hence no reliance could be placed thereupon.

[9]. It is, however, admitted that the adverse reports grading him 'poor' [1990-91] or 'average' [1991-92] and 'below average' [1992-93 partial] were duly conveyed, against which the appellant

represented but his representations were turned down.

[10]. Having given our thoughtful consideration, we are unable to agree with the claim put forth on behalf of the appellant. Firstly, there was no government policy or a judicial mandate to communicate the complete reports of the year 1987-88 or prior thereto. The subsequent 'poor', 'average' or 'below average' reports [for partial years] were duly conveyed to the appellant and his representations against the same were also considered. Secondly, the ACRs are suggestive of the fact that with the passage of time the performance of appellant was going down as three reports immediately preceding the compulsory retirement were graded as 'poor', 'average' or 'below average'. While considering the over-all service record, emphasis deserves to be given to the last reports and his performance during the relevant years was not satisfactory, coupled with the fact that he failed to earn 70% good reports as per the policy dated 06.08.1983, it appears that the view taken by the learned Single Judge is plausible one and calls for no interference.

[11]. Dismissed.

[12]. Since we have dismissed the appeal on merits, there is no necessity to go into the question of delay in filing the same.

(SURYA KANT)
JUDGE

August 03, 2015.
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(P.B.BAJANTHRI)
JUDGE