

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

LPA No. 826 of 2015 (O&M)

DATE OF DECISION : 30.07.2015

Sukh Pal

.... APPELLANT

Versus

The State of Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. P.L. Verma, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 04.05.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 3861 of 2015) filed by the appellant challenging the order of his retirement at the age of 55 years, has been dismissed.

We have heard learned counsel for the appellant and have gone through the impugned order.

In this case, the authorities after taking into consideration the service record of the appellant, particularly the ACR for the period from 01.04.2009 to 11.11.2009 (Annexure R-4), whereby the appellant was reported to be “corrupt”; and considering the fact that the said adverse entry

in the ACR of the appellant was upheld by the civil court upto the first appellate court; as well as the factum of pendency of departmental enquiry against the appellant for his having been involved and arrested in case FIR No. 922 dated 01.11.2014 under Sections 294, 354, 509, 511 IPC registered at Police Station Civil Lines Gurgaon, involving the charges of moral turpitude, vide order dated 26.02.2015 (Annexure P-5) took a decision that services of the appellant are not required by the department beyond the age of 55 years, and ordered to retire him at the age of 55 years in public interest.

The learned Single Judge, after taking into consideration all these facts as well as the fact that the appellant had concealed the material fact with regard to his involvement in the aforesaid criminal case and pendency of departmental enquiry against him, dismissed the writ petition filed by the appellant challenging the aforesaid order of his retirement at the age of 55 years.

Learned counsel for the appellant, while referring to a decision of the Apex Court in **State of Gujarat Vs. Suryakant Chunilal Shah**, 1999 (1) SCC 529, argued that mere registration of a criminal case and involvement of the appellant in that case does not constitute sufficient material to hold that he had outlived his utility as a Government servant or that he had lost his efficiency, therefore, the order of his retirement at the age of 55 years on the ground that a criminal case was registered against

him and departmental enquiry for the same was pending against him is not sustainable. Learned counsel further argued that though the adverse entry recorded in his ACR has been upheld by the Civil Court upto the first appellate court, but RSA against the judgments of the courts below is still pending.

We do not agree with the contention raised by learned counsel for the appellant. It is not only because of pendency of a departmental enquiry against the appellant for having been involved and arrested in a criminal case, that he was retired at the age of 55 years, but his service record, particularly the adverse entry in his ACR for the period from 01.04.2009 to 11.11.2009 (Annexure R-4), where he has been reported to be a “corrupt” employee, was also taken into consideration. In **Suryakant Chunilal Shah's case** (supra), it has been held that if in the ACRs of an employee, there is an entry of doubtful integrity, then his compulsory retirement is deemed to be in public interest, and the authorities are well within their right to pass such an order. In the instant case, the aforesaid adverse entry in the ACR of the appellant has been upheld by the Civil Court upto the first appellate court. Merely because RSA against the judgments of the courts below is pending, the adverse entry regarding integrity of the appellant recorded in his ACR cannot be discarded.

In view of the above, we do not find any ground to interfere

with the order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

July 30, 2015
ndj

(HARINDER SINGH SIDHU)
JUDGE