

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

**Regular Second Appeal No.3595 of 2012 (O&M)
Date of decision : 25.05.2015**

Om Parkash

....Appellant

versus

Food Corporation of India and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kamal Gupta, Advocate,
for the appellant.

RITU BAHRI, J.

Plaintiff-appellant has come up in regular second appeal against the judgments of concurrent findings of fact recorded by both the Courts below, whereby his suit for declaration that the order dated 26.09.2002 passed by the Senior Regional Manager, Food Corporation of India-defendant No.2 prematurely retiring him from service was illegal and unlawful, has been dismissed.

Om Parkash, plaintiff-appellant joined the service of defendant-corporation in the year 1969 as Technical Assistant, Grade-1 and was posted in Haryana region. In the year 1979, he was transferred to Rajasthan and thereafter, in the year 1982 he was further transferred to Punjab region. Later on, he was promoted to the post of Assistant Manager (Quality Control) in December 1984. consequently, he was transferred to Haryana region. In july, 1997, he was reverted to the post of Technical

Assistant, Grade-1. Vide order dated 26.09.2002, he was prematurely retired from service under Regulation 22 (2) of FCI (Staff) Regulations, 1971. Legal notice dated 02.12.2002 was sent to defendant No.2, but to no avail. Ultimately, he filed a suit for declaration to the effect that the order dated 26.09.2002 was illegal, null and void.

Upon notice, defendant-respondents filed their written statement, wherein they had taken preliminary objections with regard to estoppel, cause of action and suit being barred under Order 2 Rule 2 CPC.

From the pleadings of the parties, following issues were framed:-

1. Whether letter dated 26.09.2002 passed by defendant No.2 is illegal, null and void and liable to be set aside and against the rules and regulation contained in FCI (Staff) Regulations, 1971? OPP
2. Whether the plaintiff is entitled to be reinstated in the service of the Corporation retrospectively along with entire salary, perks and other benefits? OPP
3. Whether the plaintiff has no cause of action and locus standi to file the present suit? OPD
4. Whether the suit is pre mature? OPD
5. Whether the plaintiff is estopped from filing the suit by his own act and conduct to file the present suit? OPD
6. Whether the suit is hit by the provision of Order 2 Rule 2 CPC? OPD
7. Relief.

Both the Courts have decided against the plaintiff-appellant.

Hence, this appeal.

As per Regulation 22 (2) of FCI (Staff) Regulations, 1971, an employee of the corporation can be granted premature retirement after attaining the age of 50 years. In the present case, the plaintiff-appellant had crossed the age of 55 years when the impugned order date 26.09.2002 (Ex.P4) was passed. The order of premature retirement was passed on the basis of review sheet, Ex.D3, which was signed by three officers, including Mr. T.C. Gupta, SRM-defendant No.2. It has been observed by the said committee that the vigilance profiles of the plaintiff-appellant indicated his integrity to be doubtful. As per the review committee report, Ex.D3, conduct of the plaintiff-appellant was not satisfactory. With regard to doubtful integrity, there was no entry in his ACRs for the years 1997 to 2001, Ex.PW2/A to Ex.PW2/E. The plaintiff-appellant was prematurely retired in the year 2002 and thereafter, he filed a civil writ petition before this Court claiming relief of retiral benefits on the basis of above said order. The present suit was instituted by the plaintiff-appellant on 21.09.2005 after receiving CPF and other retiral benefits. This fact was admitted by the plaintiff during his cross-examination. The present suit was barred under Order 2 Rule 2 CPC, therefore, no ground for reinstatement was made out. Moreover, by now, he has crossed the age of 60 years.

Keeping in view that 21 vigilance enquiries were pending against the plaintiff-appellant at the time of his premature retirement, the impugned order cannot be said to be the result of punishment nor it was a stigmatic order.

After going through the judgments passed by both the Courts below, no irregularity, much less perversity, has been found therein

warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

(RITU BAHRI)
JUDGE

25.05.2015

ajp