

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

CWP No.10275 of 1994 (O&M)

Date of decision: 20.01.2016

Baldev Singh

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Sud, Advocate,
for the petitioner.

Mr. Gaurav Goel, AAG, Haryana,
for the respondents.

Ritu Bahri, J.

The petitioner is seeking quashing of compulsory retirement order dated 06.06.1994 (Annexure P-7) and adverse reports conveyed vide letter dated 04.06.1993 (Annexure P-2).

Petitioner had joined on 25.11.1959 as Tehsil Welfare Officer in the Department of Scheduled Castes and Backward Classes in the joint Punjab. He belongs to Scheduled Caste category. On reorganization of Punjab State in 1966, the services of the petitioner were allocated to the State of Haryana. He was promoted on merit through selection as Superintendent, Agricultural Settlement Forum, Birthwari in District Jind. Thereafter, he was promoted as District Welfare officer in April, 1982. In the year 1985, while posted as District Welfare Officer at Hisar, the

petitioner was given additional charges of other districts i.e. District Welfare

Officer, Sirsa, District Social Welfare Officer, Sirsa and District Social Welfare Officer, Hisar, from 14.05.1985 to 28.05.1985. In the year 1990, when the petitioner was posted at Karnal, he was given the additional charge of Kurukshetra District and he worked both as District Welfare Officer, Karnal as well as Kurukshetra. Further, when the petitioner was posted at Kurukshetra, he was given the additional charge of Ambala District. Work and conduct of the petitioner was outstanding and very good. The petitioner attained the age of 55 years as on 15.06.1993 and as per the Government instructions, the record of the petitioner for the purpose of grant of further extension beyond 55 years was to be considered up to the year 1992-93. The petitioner alleges that one Smt. Kamla Chaudhary-respondent No.3 had retired many officials belonging to Scheduled Caste category. Among those officers were Sh. Chunni Lal, Tehsil Welfare Officer and Sh. Sube Singh, Tehsil Welfare Officer (belonging to Scheduled Caste category), who were prematurely retired by her. A complaint was manoeuvred by her against the petitioner through one Jai Singh, Tehsil Welfare Officer. However, subsequently, he gave in writing (Annexure P-1) that he had made a false complaint. Thereafter, aforesaid Kamla Chaudhary recorded adverse remarks against the petitioner vide Annexure P-2. Against these remarks, the petitioner made a representation (Annexure P-3) to the Secretary to Government, Haryana, Welfare Department. Reference was made to Government instructions dated 04.10.1956 (Annexure P-4), as per which, the officer giving adverse report regarding integrity has to fortify his remarks with instances and reasons. Further, as per Government Instructions dated 16.08.1983 (Annexure P-5), extension of service beyond the age of 55 years to the officer/officials is to be granted in case ACRs for the last 10

remarks for the year 1992-93 were recorded on account of malafide and extraneous consideration.

Upon notice, written statement on behalf of respondent Nos. 1, 2 and 3 has been filed, wherein it has been stated that the integrity of the petitioner was found doubtful during the year 1961-62 (Annexure R-1), 1962-63 (Annexure R-2) and 1993-93 (Annexure R-3). He was awarded punishment for the acts of omission and commission, which adversely reflected his integrity. It was submitted that for the purpose of granting extension after the age of 55 years, last 10 years record of an employee was to be considered. The allegation that Mrs. Kamla Chaudhary-respondent No.3 had given adverse remarks against the petitioner has been denied. It was further submitted that the Head of Department Mrs. Kamla Chaudhary-respondent No.3 had given him 'very good' report for the year 1990-91. Report for the year 1992-93 was also recorded by respondent No.3 on the basis of his performance. During the year 1992-93, after observing regular procedure as laid down in the Punishment and Appeal Rules, following punishments were imposed upon the petitioner:-

1. The petitioner was found absent from his office by flying squad of Chief Minister. He was censured on this account.
2. The petitioner was censured vide order issued on 20.07.1993 for causing harassment to a Tehsil Welfare Officer. The allegation was that he deducted his salary for three days when he was on sanctioned leave.
3. The petitioner was awarded punishment of censure for taking Rs.800/- as an illegal gratification for granting loan to one Sh. Satish Kumar son of Sh. Atama Ram. This was a proved case of corruption against the petitioner.

Petitioner filed an appeal before respondent No.1, which was rejected vide Annexure R-IV. It is further admitted that Sh. Chunni Lal and Sube Singh, Tehsil Welfare Officers were retired after the age of 55 years. Their retirement was based on the assessment of their record. The cases of extension of service beyond the age of 55 years are put up before the High Level Officers Committee chaired by the Chief Secretary and other senior officers. Cases of Sh. Chunni Lal and Sube Singh were also put up before the aforesaid committee and it was decided to retire them after the age of 55 years. In para No.5 of the written statement, the respondents have given the details of punishments awarded to the petitioner.

The petitioner has filed reply to the written statement taking the plea that adverse reports regarding his integrity for the years 1961-62 and 1962-63 were 30 years old and those could not be taken into consideration at the time of deciding his case for extension of service. As regards the report for the year 1992-93 is concerned, this report had been written by the Director, Social Welfare for malafide and extraneous consideration. The basis for recording adverse remarks for the year 1992-93 was a complaint/affidavit given by one Satish Kumar. This affidavit was given by him at the instance of Sh. Jai Singh, Tehsil Welfare Officer and Sh. Prithi Singh, General Secretary of Congress Party, Kurukshetra. Subsequently, Sh. Prithi Singh had given in writing (Annexure P-8) that he had made the aforesaid complaint at the instance of Sh. Jai Singh, Tehsil Welfare Officer. Sh. Jai Singh, Tehsil Welfare Officer had also given in writing (Annexure P-1) that he had been making false reports against the petitioner because the petitioner had reported against him as he was in the habit of coming office under the influence of liquor. On enquiry, this matter could not be proved as

the complaint made as the said complaint had been manoeuvred against the petitioner with *malafide* and extraneous consideration.

Learned counsel for the petitioner has argued that since the services of the petitioner were appreciated by the Deputy Commissioner as per appreciation letter (Annexure P-9), a false complaint could not be made basis for recording adverse ACR against the petitioner and the order of retirement at the age of 55 years is liable to be set aside.

Respondents have not chosen to file any rejoinder to the reply filed by the petitioner. Annexure P-8/T is a writing/statement given by Prithi Singh to the effect that he had made a complaint through Sh. Satish Kumar against Sh. Baldev Singh-petitioner regarding taking of bribe of Rs.800/- at the instance of Sh. Jai Singh, Tehsil Welfare Officer, Thanesar, which was false. Sh. Jai Singh, Tehsil Welfare Officer, had given a statement in writing (Annexure P-1), which is as follows:-

“I swear that I will not speak ill in future against any employee. If, I have used any abusive language against any officer/official previously under the influence of liquor, I want to take back those words and the complaints of staff which had been made by me till today, I take back the complaints and further I will not come office under the influence of liquor in future. The complaint which has/got made from me or made by me, I take back it also.”

Thereafter, the officials of the District Welfare Officers, office, Kurukshetra decided to take back the complaints made by them against Sh. Jai Singh, Tehsil Welfare Officer for his misbehaviour towards the staff under the influence of liquor. Vide order dated 04.06.1993 (Annexure P-2/T), the petitioner was informed that his work for the year 1992-93 was evaluated as 'average' and his reputation regarding integrity was not good. He was habitual in remaining absent from office. As per Annual Confidential Report of the petitioner for the year 1992-93 (Annexure R-3),

to his honesty. There were some complaints against him, in which action was being taken. On account of complaints received against him, Mrs. Kamla Chaudhary-respondent No.3 had assessed his work as 'average'. A perusal of writing dated 27.06.1992 (Annexure P-1) and the affidavit (Annexure P-8/T) further clarifies that Satish Kumar had made a complaint against the petitioner at the instance of Jai Singh. As per writing (Annexure P-1), said Jai Singh had made a number of complaints against the officers/officials. The District Welfare Officer had accepted his apology on the condition that he will not come to the office under the influence of liquor and will have no ill will against him.

At this stage, a conclusion can be drawn that the complaint made through Satish Kumar against the petitioner for taking bribe of Rs.800/- at the instance of Sh. Jai Singh, Tehsil Welfare Officer, Thanesar, was found to be false as per writing (Annexure P-1) given by said Jai Singh. In this background, in the ACR (Annexure R-3) his work was assessed as 'average'. However, there was no adverse report with regard to his honesty and integrity. The aforesaid complaint was made against the petitioner by Satish Kumar at the instance of Jai Singh. Apart from the above complaint, the petitioner has been awarded minor punishments vide orders dated 03.09.1987 (Annexure R-5), 09.06.1987 (Annexure R-6), 15.12.1988 (Annexure R-7), 02.01.1992 (Annexure R-8), 20.06.1992 (Annexure R-9), 04.02.1993 (Annexure R-10), 22.02.1993 (Annexure R-11), 14.04.1993 (Annexure R-12), 03.07.1993 (Annexure R-13), 10.05.1994 (Annexure R-14) and 14.02.1994 (Annexure R-15). These punishments had been awarded during the period of last 10 years prior to compulsory retirement of the petitioner. However, in compliance of the order dated 22.07.2015, it

Backward Classes Department that the petitioner had rendered his services for 34 years, 9 months and 14 days and had remained in service upto the age of 56 years, 2 months and 24 days. As per the Government instructions, maximum pensionary benefits are given for 33 years qualifying service, which have already been given to the petitioner.

Since the petitioner has already been given the maximum pension as admissible according to the Haryana Government instructions and had worked for more than 34 years, the impugned order dated 06.06.1994 (Annexure P-7) does not require any further judicial scrutiny as it is neither *malafide* or arbitrary as per the principles laid down by the Hon'ble Supreme Court in **Baikkuntha Nath Das and another Vs. Chief District Medical Officer, Baripada and another**, AIR 1992 SC 1020. Moreover, the successive punishments given to the petitioners are sufficient to come to a conclusion that the competent authority had rightly formed an opinion to compulsorily retire him from the office.

Resultantly, finding no merits, the present petition is dismissed.

20.01.2016
ajp

(RITU BAHRI)
JUDGE