

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.14953 of 1993 (O&M)

Date of Decision: 3.6.2016

Shubegh Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kushagra Mahajan, Advocate for the petitioner

Mr.Vaibhav Sharma, DAG, Punjab

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

1. Having regard to the remarks recorded on the integrity quotient of the petitioner, in part 3 of the Proforma for Annual Confidential Reports dated 14th October, 1989 (Annex. R-1), the following adverse remarks have been recorded:-

1.INTEGRITY	He is thoroughly a corrupt officer. He sold the land on public street by carving out plots under the garb of Theh Bazari and got constructed pacca shops and charged heavy amount as bribe from the allottees. I had to get the shops demolished myself. He also auctioned Government land under timber market and charged bribe from them. His reputation was that he did not move a single paper without bribe. He collected large amounts from the municipal staff and contractors for a chit fund company in the name of his daughter.
2.Relations with Public	Most uncordial
3.Knowledge of office procedure and rules and regulations.	Very poor

4.Punctuality	He was residing at Faridkot without his family. As such, he remained absent occasionally. He was warned a number of times verbally as well as in writing.
5.Sense of responsibility	Most irresponsible Officer.
6.Management and Supervision	Poor
7.Sense of discipline	Poor
8.Initiative and promptness in taking decision and execution work.	He was very prompt in taking decision where his personal interest was involved, otherwise the cases were delay abnormally.
9.Punctuality in attending the meeting of local authorities.	Satisfactory.
10.Coordination/Cooperation with other departments	He had strained relations with officers of all the departments on account of his rude behaviour.
11.Defects if any	As pointed out in the preceding paragraphs.
12.Any other remarks not covered above	
13.Over all assessment	Below Average.”

2. These remarks were recorded by the Deputy Commissioner in the ACR for the period 16th August, 1987 to 31st March, 1988. The remarks on employment ethics are highly damaging in character which may alone justify premature retirement without waiting for superannuation. No replication has been filed to traverse the terrible foundational reasons which led to premature retirement of the petitioner as noticed from the contents of the written statement filed by the department, and therefore, this Court is satisfied that the premature retirement order does not suffer from any illegality or error calling for interference in the remarks made in the ACR in question based on subjective satisfaction of the work and conduct of the petitioner observed objectively during the period.

3. Besides this there is other material to support action taken, including the most damaging fact that the petitioner had earlier filed CWP No.3673 of 1992 on identical grounds which was later on during the proceeding withdrawn without seeking permission from court to file a fresh

petition on the same cause of action. This is objected to as a bar to the present petition in Preliminary Objection No.1 in the written statement filed on behalf of respondents no.1 and 2 presented through the Joint Secretary to Government of Punjab, Department of Local Government. Therefore, a fresh writ is not maintainable. There is substance in this contention worthy of acceptance as a valid ground to non-suit the petitioner.

4. The petitioner was prematurely retired from service on 31st October, 1989 while serving as a Executive Officer in the Municipality. Previously, he had suffered major punishment order of withholding of two increments with cumulative effect on a charge of misusing a Government vehicle. These orders were passed after conducting a regular enquiry where the charge amongst others was partially proven. Looking from all angles, this is not a case for interference in writ jurisdiction exercising power of secondary review over administrative action to examine reasonableness and proportionality. Premature retirement does not cast any stigma and does not take away the right to pension. It is a process to weed out the deadwood, the corrupt and the indolent to remove the aberrations in administration to restore the balance of smooth functioning and to bring in fresh blood to public office. The argument that the petitioner had not attained the age of 50 years or had not completed 25 years of service when the axe fell is too hyper-technical an argument to accept as a ground of nullification of the order which plank should not be countenanced as one which is sound and equitable consideration of the issue involved in this case where the challenge is laid to the order of premature retirement. The petitioner has not made out a case for setting aside of the impugned order and for reinstating him in service or to grant him monetary benefits of the remaining period of service, had he continued to serve. It was not necessary for the authority to await the outcome of the disciplinary

proceedings before it took a decision to prematurely retire the petitioner in public interest. For the purpose of premature retirement, the entire record has to be seen. Mr.Vaibhav Sharma, learned counsel for the State informs the Court that the service record of the petitioner is not available and the same has been lost. This Court would draw an adverse inference from loss of record since one of the charges against the petitioner was also that he delayed the movement of files/papers containing his adverse ACRs to the higher ups and to easily agree with his statement that many of them were not written and hence could not be cumulatively use against him. This is for the reason that the only beneficiary of loss of service record could be the petitioner. There is serious suspicion that he may have had a hand in the disappearance of record which if produced might have gone against him. In the case projected in the papers placed before this Court on file, an adverse inference can validly be drawn against the petitioner when the service record is not available with the department and therefore for the perusal of the Court. His intergrity was adversely commented upon by the assessing authorities for the relevant period as suffering from the worst kind of conduct expected of an officer which is also a matter of grave concern regarding work and conduct, as witnessed from a reading of the ACR reproduced above, which eminently justifies the action of prematurely retiring the petitioner from service to keep as pure as possible the wheels of administration moving without any extra baggage.

5. For the foregoing reasons, I find no life in this petition which is accordingly dismissed without any order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

3.6.2016
MFK