

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15099 of 1995

Date of Decision: 10.03.2016

Lahori Ram Ex-Head Constable

... Petitioner

Versus

The State of Punjab and others

... Respondents

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

Present: Mr. H.K. Brinda, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

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

RAJIV NARAIN RAINA, J.

1. The petitioner was retired prematurely from the Police Department on March 16, 1994 while serving as a Head Constable (Executive Clerk). The order was passed by the Senior Superintendent of Police, Rupnagar in public interest invoking Rule 3 (1) (a) of the Punjab Civil Services (Premature Retirement) Rules, 1975. On appeal against the order to the DIG of Police, Patiala Range, Patiala his plea was accepted that the SSP was not empowered to retire prematurely a Head Constable. That jurisdiction vested in the DIG. His appeal was allowed on June 28, 1994 and the order was set aside and the petitioner was taken back in service. He rejoined on July 03, 1994. By then, the petitioner had attained the age of 55 years.

2. The SSP, Ropar after going through the service record of the

petitioner sent him for medical examination to the Senior Medical Officer, Police Hospital, Police Lines, Ropar to review his case for grant of three years extension in service till the age of superannuation. The SMO reported that the petitioner is of reasonable health with physical capacity and mental alertness to continue to discharge satisfactorily the duties in ministerial cadre. The report was made on July 20, 1994. The report together with the service record and confidential rolls of the petitioner was considered by the DIG and the petitioner was retired from service prematurely on July 26, 1994. The petitioner represented against the order to the DGP, Punjab who rejected the memorial.

3. The petitioner availed his last remedy before the Home Secretary, Government of Punjab against the order of the DGP, Punjab who declined the representation on July 23, 1995.

4. Having been prematurely retired the petitioner was taken on duty as a Special Police Officer (SPO) by the SSP, Ludhiana vide order dated July 18, 1995 to work on daily wages.

5. In the written statement filed by the Police Department, the claim has been contested and the adverse orders are defended as being legal and valid. His service record as reflected through ACRs has been placed on record at Annexures R-1 to R-6. It is stated that the petitioner attained the age of 55 years on July 26, 1994. It was denied that the petitioner has a clean record of service. During his service career, he was awarded censures on five occasions and his work and conduct was adversely commented in his ACRs for the period from April 01, 1973 to March 31, 1974, July 02, 1976 to March 31, 1977, July 11, 1983 to February 29, 1984, September 13,

1984 to January 06, 1985, August 11, 1986 to March 31, 1987 and December 11, 1992 to March 31, 1993 by different SSPs.

6. The department pleads that good and bad entries were taken into account before passing the order of premature retirement. This is the stand of the State emphasizing that there is no legal necessity of offering personal hearing to a Government servant before passing orders of premature retirement. An order of premature retirement is based on subjective satisfaction of the officer, i.e. the opinion formed on objective criteria. The record of past service serves as the objective criteria of assessment for premature retirement with more emphasis placed on record of the recent past. A perusal of the ACRs for the period under consideration have recorded for the year July 02, 1976 to March 13, 1977 in the column of honest: Integrity Doubtful. In the same year against the column of defects, if any, it has been recorded that the petitioner was dealt with departmentally for misappropriating a lorry voucher for which two years of his service were forfeited. The general assessment for that period assessed the petitioner as a mediocre worker.

7. In the ACR at Annex R-3 for the period July 11, 1983 to February 29, 1984 his honesty was reported with the words that there were complaints of petty corruption against him. His capacity and intelligence was assessed as poor. He was totally ignorant of rules and orders in the assessment of the reporting officer. His despatch of business was below average. He was quarrelsome in nature. The general assessment was that he was a below average type of employee. No improvement was noticed in his work. For the period September 13, 1984 to January 06, 1985 (Annex R-4)

he was assessed in the general remarks column as an average type who needed all round improvement. It has been noted that he was reverted as Head Constable and transferred to Ludhiana District. The next ACR (Annex R-5) assesses him as a careless, lazy and inefficient Head Constable. He was in the habit of absenting himself for which he was warned by SP/City on February 16, 1987. He even misplaced a letter received from DIG/Patiala Range. In the assessment period 1992-93 his industry was assessed as Average with the general remarks that he should study rules and regulations to acquire proficiency in them. There is no dispute that all these ACRs were conveyed to the petitioner and held good till he was prematurely retired. In short, the petitioner is recorded to possess a chequered service record.

8. The petitioner's argument that he was medically fit has no connection whatsoever with his case for premature retirement, the two evaluations being for different purposes. Physical fitness has no place in the consideration in a case of premature retirement, unless physical fitness is alone the only parameter to be reviewed. This Court has absolutely no doubt that the premature retirement orders were passed for good and sufficient reasons. An order of premature retirement is not punitive in nature and the law on the subject has been spelled out by the Supreme Court and the scope of the nature of power exercised by the State Government in retiring its employees prematurely or compulsorily is indicated in the Constitution Bench decision in **Baikuntha Nath Das and another v. Chief District Medical Officer, Baripada**, 1992 SCR (1) 836 : AIR 1992 SC 1020 to which no detailed reference is necessary.

9. The object of premature retirement is to weed out the inefficient,

the drones and the deadwood to remove impurities in the smooth functioning of the administration.

10. I see no reason to interfere in the present petition. The prayer in the petition is declined and petition is ordered to stand dismissed without any order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

10.03.2016
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