

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17561 of 1995 (O&M)

Date of Decision: 18.02.2016

Balwant Rai Gupta

... Petitioner

Versus

The State of Punjab and another

... Respondents

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

Present: None 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. No one appears for the petitioner when the case is called for hearing. No valid ground to await appearance especially when four old matters are shown in urgent peshi in the daily cause list for final disposal as devised by this Court. Therefore, I have heard Mr Manuja for the State who is prepared to address arguments.

2. The petitioner was retired at the age of 55 years invoking Rule 3 (1) (a) of the Punjab Civil Services (Premature Retirement) Rules, 1975 in public interest. Of the many reasons assigned for action taken which led to the premature retirement were mostly consideration of three of the petitioner's ACRs recorded for the years 1990-91, 1991-92 and 1992-93 which were adverse to his career in extension of services till superannuation. The Government took into consideration the entire service

record with special emphasis placed on more recent entries on the confidential rolls of the petitioner and found therein that there was an overall unsatisfactory record of service sufficient to warrant discontinuance in public service on account of inefficiency finding an official of no further utility to Government service.

3. The plea taken by the petitioner that the ACRs recorded for the three disputed years wreak of mala fide action or bias is not substantiated by any corroborative evidence or proof of Government acting deliberately against the petitioner under the rules in an arbitrary and unreasonable manner. The petitioner's representation against the adverse ACRs have been duly considered and decided in accordance with rules and instructions of the Government on the subject and were rejected after due consideration of service record. Neither any patent error of assessment of conduct in the face of record nor any mala fide or oblique intentions in the Government are noticeable or were involved in the recording of the ACRs which are basis of forming opinion on objective material on subjective satisfaction of the authority vested with the duty under the rules to keep the administration free of the indolent and the deadwood. The petitioner was duly informed of the rejections of his representations in this behalf.

4. Ordinarily, the opinion formed by the Government on subjective satisfaction in terms of Rule 3 (1) (a) of the 1975 rules is final unless action taken is visited by error of judgment formed on incorrect facts, perversity, irrationality or bias. If none of these defences is available then interference is not called for in the order of premature retirement or to needlessly tinker with the confidential rolls. I see no way to bring relief to

the petitioner by setting aside the order of premature retirement. Moreover, this court does not sit in appeal over remarks recorded in ACRs by the reporting officer who during his tenure assessed the performance of an official working under him with whom he was in regular and routine contact in the shared office, one serving under the other.

5. In the totality of facts presented, this court finds hardly any merit in this petition worth interference in the writ jurisdiction provided by Article 226 of the Constitution. The same is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

18.02.2016
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