

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 549 of 2015 (O&M) in
CWP No. 11231 of 2014
Date of decision: 25.5.2016

Randhir Singh

.. Appellant

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Brij Bhushan Kaushik, Advocate for the appellant.
Mr. Ankur Mittal, Addl. Advocate General, Haryana.

...

Rajesh Bindal J.

The writ petition, challenging the order of punishment passed way back on 2.8.2005 and the order of compulsory retirement dated 5.8.2013, having been dismissed by the learned Single Judge, the order has been impugned by filing the present intra-court appeal.

The appellant was serving as Conductor with Haryana Roadways. Having found that there were ticketless travellers in the bus, on which he was on duty, he was issued charge-sheet. After enquiry, vide order dated 2.8.2005, he was inflicted punishment. The order was impugned for the first time by filing the writ petition in the year 2014, nearly 9 years thereafter. As far as challenge to the aforesaid order is concerned, there is no error in the order passed by the learned Single Judge dismissing the writ petition on account of delay and laches.

Second order impugned in the writ petition was dated 5.8.2013 regarding compulsory retirement of the appellant at the age of 55 years. The appellant attained the age of 55 years on 4.11.2012. The entry in the column

of integrity in the ACR for the year 2004-05 was “not honest”. Over-all grading was “average”. The appellant never represented against the same. The entry so recorded was final. The entire record of an employee is reviewed at the age of 55 years and in that process, the competent authority decided to compulsorily retire the appellant.

Learned counsel for the appellant reiterated the contention raised before the learned Single Judge, namely, that the appellant could not be punished twice for the same charge, as compulsory retirement is a punishment. The contention is totally misconceived. It is settled position of law that an order of compulsory retirement is not a punishment. The issue was considered by the learned Single Judge. The relevant part of the judgment is extracted below:

“Insofar as the principles governing compulsory retirement are concerned, the same are by now well settled. The order of retiring an employee upon completion of 55 years of age is not by way of punishment and it does not imply any stigma. The competent authority has the discretion to retire an employee after he attains a particular age or completes a particular period of service. The High Court, while examining an order of compulsory retirement is not to act as an Appellate Court but would interfere only if the order is found to be vitiated by malafides or is passed on no evidence or is arbitrary to the extent that no prudent person could form the requisite opinion to compulsorily retire on the basis of the given material. A reference in regard to such settled principles may be made to the celebrated judgment of the Hon'ble Supreme Court in **Baikuntha Nath Das and another v. Chief District Medical Officer, Baripada and another**, 1992 (2) SCT 92.”

Even in **Pyare Mohan Lal v. State of Jharkhand and others**, (2010) 10 SCC 693, Hon'ble the Supreme Court opined that order of compulsory retirement is not a punishment. If the facts of the case are considered in the light of the ACR of the appellant, it cannot be opined that there is any error in the order passed by the learned Single Judge in dismissing the writ petition.

The appeal is, accordingly, dismissed. Consequently, the application for condonation of delay is also dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

25.5.2016
mk