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

RSA No.5216 of 2015

Date of decision: January 25, 2016

Nand Pal

.....Appellant

Versus

Haryana State and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vivek Sharma, Advocate
for the appellant.

SABINA, J

Appellant had filed suit for declaration challenging the order of his compulsory retirement.

The case of the appellant, in brief, was that he had remained under suspension from 04.12.2006 to 02.10.2007 as FIR No.937 dated 04.12.2006 was registered against him at Police Station City Hisar, under Sections 7, 13 (1) of the Prevention of Corruption Act, 1988 ('P.C. Act' for short) and Section 68 of the Excise Act, 1914 ('Excise Act' for short). Appellant was acquitted in the said case vide judgment dated 12.06.2009. The order of compulsory retirement dated 22.02.2009 was passed against the appellant on his attaining the age of 55 years by giving him three months notice. The order, whereby, appellant was compulsorily retired was illegal, null and void. Appellant

was liable to continue in service till the age of 58 years.

Defendants in their written statement averred that FIR was registered against the appellant under the P.C. Act and Excise Act. Departmental inquiry was also initiated against the appellant. The inquiry officer after holding enquiry held that the appellant was guilty of the charges framed against him. Show-cause notice was issued to the appellant on 05.12.2007. Appellant was heard in person on 21.02.2009. By taking a lenient view, penalty of stoppage of eight future annual increments with permanent effect was imposed vide order dated 25.02.2009 and the appellant was ordered to be retired on his attaining the age of 55 years in view of his record. As per the Annual Confidential Reports for the last ten years of service career of the appellant, adverse remarks had been recorded against him for the period from 01.04.2006 to 01.05.2006 and 19.06.2006 to 31.03.2007. It was mentioned in the integrity column that the appellant was 'dishonest' and in the column of reliability, it was mentioned 'unreliable'. Defendant No.2 thus, ordered that the appellant shall retired from services on expiry of three months from the date of receipt of order as per Rule 5.32-A(c) of the Punjab Civil Services Rules Vol-II, Rule 3.26(d) of Punjab Civil Services Rules Vol-I Part-I and Rule 9.18 (1)(c) of Punjab Police Rules, 1934.

On the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether the orders of compulsory retirement bearing Memo No.7177 dated 22.2.2009 issued by S.P. Hisar vide which it was ordered that it is in the public interest to retire the plaintiff posted in Police Lines, Hisar from service after attaining the age of 55 years, is illegal, null and void and is not binding upon the plaintiffs on the ground as detailed in the plaint?OPP
2. Whether the plaintiff is entitled to continue in service upto the age of 58 years and to get released the salary and other allowances and all service benefits alongwith interest @ 18% from the date due till the realization?OPP
3. Whether the plaintiff is estopped by his own act and conduct to file the present suit?OPD
4. Whether the plaintiff has no cause of action and locus standi to file the present suit?OPD
5. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 10.01.2013 dismissed the suit of the appellant-plaintiff. The said judgment/decreed were upheld by the First Appellate Court in an appeal filed by the appellant-plaintiff vide judgment/decreed dated 01.08.2014. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the appellant and have gone through the record available on the file carefully.

In the present case, appellant has been compulsorily retired from service on his attaining the age of 55 years by giving him three months notice under Rule 5.32-A(c) of the Punjab Civil Services Rules Vol-II, Rule 3.26 (d) of Punjab Civil Services Rules Vol-I Part-I and Rule 9.18 (1)(c) of Punjab Police Rules, 1934. The case of the defendants was that when the case of the appellant was examined for retention of his service beyond the age of 55 years, the adverse remarks for the period from 01.04.2006 to 01.05.2006 and 19.06.2006 to 31.03.2007 were taken in consideration. Adverse entries in the service record of the appellant were to the effect that he was 'dishonest' and 'unreliable'. Since the appellant was opined to be dishonest and unreliable, the defendants had rightly held that it would not be in the public interest to allow him to continue in service after the age of 55 years. The Courts below had thus, rightly dismissed the suit of the appellant.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

**(SABINA)
JUDGE**

January 25, 2016
mahavir