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

**419** **CWP-4487-1999 (O&M)**
**Date of decision:01.05.2017**

Rati Ram

....Petitioner

Versus

Haryana Vidyut Prasaran Nigam Limited and others

.... Respondents

**CORAM: Hon'ble Mr. Justice P.B. Bajanthri**

Present: Mr. Ashwani Talwar, Advocate for the petitioner.

Mr. H.S.Gill, Advocate for the respondents.

**P.B. Bajanthri, J. (Oral)**

In the instant writ petition, the petitioner has questioned the validity of order dated 13.01.1999 vide Annexure P7 by which notice has been issued to the petitioner that he would be retired compulsorily after completion of 3 months and under Rule 3.26 (D) of CSR Volume-I, Part-I.

2. Learned counsel for the petitioner submitted that for the purpose of retiring the petitioner Annexure P1 has been taken into consideration by which the petitioner has been communicated Annual Confidential Report for the period from 01.04.1988 to 14.12.1988 on 13.10.1998. The petitioner feeling aggrieved by the Annual Confidential Report dated 13.10.1998 preferred a representation before the competent authority. The same has been rejected vide Annexure P8 dated 09.07.1999. The petitioner has

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obtained interim order on 30.04.1999 and continued in the post. In the normal course, he has attained age of superannuation and retired on 30.04.2002. It was submitted that Annual Confidential Report for the year 1988 has been communicated after nearly one decade and the same has been taken into consideration for the purpose of retiring the petitioner compulsorily. Therefore, the impugned action retiring the petitioner compulsorily under Rule 3.26 (D) of CSR Volume I Part I is highly arbitrary and is liable to be set aside.

3. Per contra, learned counsel for the respondents submitted that no doubt Annexure P1 dated 13.10.1998 by which the Annual Confidential Report for the period from 01.04.1988 to 14.12.1988 has been communicated to the petitioner on the score that same was not communicated to him. During pendency of this litigation, the official respondents noticed that petitioner has been communicated Annual Confidential Report of 1988 on 21.03.1990 (Annexure R2). Therefore, the contention of the petitioner that Annual Confidential Report for the year 1988 has not been communicated immediately and it was communicated on 13.10.1998 is liable to be rejected having regard to Annexure R2. It was further contended that the official respondents have taken note of the remarks of doubtful integrity entered in the Annual Confidential Report for the year 1988 therefore, the petitioner has not made out a case so as to interfere with the Annexure P7.

4. Heard learned counsel for the parties.

5. The official respondents have taken material of Annual

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Confidential Report for the year 1988 in particularly doubtful integrity for retiring the petitioner. . That apart, the Annual Confidential Report for the year 1988 has been communicated on 21.03.1990. Assuming that annual confidential report has been communicated to the petitioner on 21.03.1990 the official respondents had sufficient time of 8 years to find out whether the annual confidential report for the year 1988 has been communicated to the petitioner on 21.03.1990 . Only during pendency of this litigation they have produced acknowledgement (Annexure R2) that the annual confidential report has been communicated on 21.03.1990. Thus, it is evident that there is lapse on the part of the official respondents in not keeping the records appropriately. Moreover, at the time of rejection of the petitioner's representation against annual confidential report on 09.07.1999 also the official respondents have not taken the fact that ACR for the year 1988 has been communicated on 21.03.1990. For the first time, they have taken a contention before this court that ACR for the year 1988 has been communicated on 21.03.1990. Further relying on doubtful integrity is concerned, no material has been placed and the petitioner has not afforded any opportunity. Writing of doubtful integrity in the ACR is only a conclusion. It must be supported by certain materials at least in the file. No file has been placed on record so as to substantiate the remark of doubtful integrity in the Annual Confidential Report of the year 1988. That apart, petitioner has been continued in service by virtue of interim order dated 30.04.1999 and he has attained age of superannuation and retired on 30.04.2002 having regard to these facts and circumstances, Annexure P7 is

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set aside.

6. Consequently, CWP stands allowed.

7. The petitioner has not been extended consequential benefits during the intervening period from the date of compulsory retirement and date of retirement as on 30.04.2002. If the monetary benefits are not settled as on today, the same shall be settled within a period of 6 months from today.

**( P.B.BAJANTHRI)**
**JUDGE**

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Whether speaking/reasons Yes/No

Whether Reportable: Yes/No

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