

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.**

**RSA-583 of 1995
DATE OF DECISION: 31.01.2017**

Harbans Singh

...Appellant.

VERSUS

Punjab State and others

...Respondents.

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the appellant.

Mr. Rahul Verma, Assistant Advocate General, Punjab.

RAJIV NARAIN RAINA, J. (Oral)

1. None is present on behalf of the appellant. Heard learned counsel for the State on the issue of jurisdiction raised by the appellant.
2. In this case, the Superintendent of Police passed the order of premature retirement against the appellant who was Assistant Sub Inspector of Police (ASI). It is the case of the appellant that no officer lower than Deputy Inspector General of Police (DIGP) had jurisdiction to pass the order of compulsory retirement against the appellant on attaining the age of 50 years who is said to be the appointing authority of the appellant. Rule 3(1) of the Punjab Civil Services Premature Retirement Rules, 1975 read with Chapter 12.1, Volume 2 of the Punjab Police Rules, 1934 empowers the Superintendent of Police, being a delegated authority, to appoint ASI and therefore, there is no merit in this submission of the appellant. Learned

Appellate Court vide its judgment and decree dated 09.11.1999 reversed the judgment of the trial Court and rightly considered the legal position by noticing the case law in Union of India and others Vs. Shri Dulat Dutt, 1993 (1) Speed Post Judgments 617 (Supreme Court), wherein it has been held as under:-

“That an order of a compulsory retirement is not an order of punishment. It is actually a prerogative of the Government but it should be based on material and has to be passed on the subjective satisfaction of the Government. Very often, on enquiry by the Court, the Government may disclose the material but it is very much different from the saying that the order should be a speaking order. No order of compulsory retirement is required to be a speaking order.”

3. The learned first Appellate Court also considered the adverse remarks against the honesty of the appellant recorded in his ACRs continuously from 12.09.1981 to 30.09.1984 which were as follows:

“Honest - cannot be vouch-safed.”

4. All these remarks were communicated to the appellant and his representations against these remarks were rejected by the administrative authorities. The respondent-State has rightly compulsorily retired the appellant in public interest. The administrative authorities have an absolute right to compulsorily retire a public servant and this power is to be used to their subjective satisfaction to reach the conclusion if the official has out-lived his utility and it is not in the public interest to retain him in service. The lower appellate Court not only applied the law, but has remained conscious of the leading judgment of the Supreme Court in Baikuntha Nath Das and another Vs. Chief District Medical Officer, Baripada and another,

(1992) 2 SCC 299 and other case law on the subject to uphold the order of compulsory retirement. An order of compulsory retirement is not a stigma and not a punishment so long as the decision is free from bias and ill-will. No interference is called for in the judgment and decree of the lower Appellate Court

5. For the foregoing reasons, this appeal is dismissed and the judgment and decree dated 09.11.1994 passed by the Additional District Judge, Kapurthala is upheld.

(RAJIV NARAIN RAINA)
JUDGE

31.01.2017.

komal/MFK

Whether speaking/reasoned:

Yes/ No

Whether reportable:

Yes/No