

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.27345 of 2013.

Date of Decision:-16.05.2017.

Ismail Khan, ASI

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Siddharth Sanwaria, DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) The petitioner has questioned the validity of letters dated 22.10.2009 and 23.8.2010 (Annexures P-2 and P-3, respectively) by which his annual confidential report for the period from 13.6.2008 to 27.2.2009 and 1.4.2009 to 2.12.2009 has been recorded to the extent of average and for the subsequent period in column No.12 it has been recorded “*An Average NGO (police) one censure was awarded to him. One D/E is still pending against him*”.

2.) Learned counsel for the petitioner has not made out a case so as to set aside Annexure P-2 and P-3 and no valid ground has been urged. Insofar as question to the notice dated 29.05.2014 (Annexure P-13) by which proposal to retire the petitioner on attaining age of 55 years under

Rule 3.26 (d) of the Punjab Civil Services Rules, Volume-I, Part-I read with

Rule 9.18 (1) (c) of the Punjab Police Rules, as applicable to the State of Haryana. Learned counsel for the petitioner submitted that one of the doubtful integrity has been taken into consideration recorded for the year 2008-09 and it is not supported by any material. Merely stating that petitioner's performance integrity – Average does not suffice for consideration of the petitioner's retirement after attaining age of 55 years. Overall service has not been taken into consideration before passing Annexure P-13. Hence, Annexure P-13 is liable to be set aside.

3.) Per contra learned counsel for the respondents submitted that competent authority has taken into consideration petitioner's service record for the past 10 years as on 20.1.2014 while taking into consideration Annual Confidential Report for the year 2008-09 read with censure imposed in the year 2002 and 2009 and stoppage of 2 annual increments with temporary effect on 29.2.2011 so also pendency of FIR No.343 dated 18.11.2009 on the ground that the petitioner has failed to conduct proceedings appropriately in the said FIR. Consequently, departmental inquiry was initiated and it was closed. Therefore, the petitioner's overall service record has been taken into consideration for the purpose of retiring him.

4.) Heard learned counsel for the parties.

5.) The petitioner has not made out a case insofar as challenge to Annexures P-2 and P-3. Insofar as Annexure P-13 is concerned, perusal of the service records of the petitioner it is evident that the petitioner from 2003 to 2008, 2010-2011, and 2013 has been assigned good remarks and outstanding remarks for 2011-12.. Integrity-average for the year 2008-09 adverse report for the year 2009-10, outstanding for the year 2011-12.

Except 2008-09 and 2009-10, rest of the service records are good and outstanding. Further any reliance of integrity-average for the year 2008-09, no documents or reasons have been assigned while taking decision on 20.1.2014. Thus, service records of the petitioner has not been assessed properly as per the instructions issued by the State Government relating to compulsory retirement of an employee as and when he attained age of 55 years. Therefore, Annexure P-13 is hereby set aside. The concerned respondents are hereby directed to extend all consequential benefits including monetary benefits within a period of 4 months from today.

6.) Petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

May 16, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.