

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

**CWP- 8108-2013
Date of Decision :08.03.2017**

RAM SARUP

.....Petitioner

Versus

HRV. INSTITUTE OF PUBLIC ADMN.

.....Respondent

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

Present: Mr. Vijay S.Kajla, Advocate for
Mr. Kartik Gupta, Advocate
for the petitioner.

Mr. D.S.Rawat, Advocate
for the respondent.

P.B.BAJANTHRI, J. (ORAL)

In the instant petition, the petitioner seeks quashing of the order dated 22.01.2013 vide which the petitioner is proposed to be retired compulsorily with effect from 15.04.2013, after the expiry of three months period from the date of issuance of the order.

Learned counsel for the petitioner submitted that before passing Annexure P-1, the respondents have not issued show cause notice under Rule 3.26(d) of Punjab Civil Services Rules, Vol.I, Part-I, consequently Annexure P-1 is liable to be set aside.

It was further submitted that the petitioner had good record for six years during the period from 2002-2013 and for four years report is average. He is a Class-III employee a lenient view should have been taken by the respondents before invoking Rule 3.26(d) to retire the petitioner

compulsorily in the public interest.

Learned counsel for the respondent vehemently contended that the petitioner while he was in service in the year 2007, he has been punished twice by imposing the penalty of warning and on 01.08.2008 in a disciplinary proceeding he was punished by imposing the penalty of stoppage of four increments. The respondents have taken a decision to retire the petitioner under Rule 3.26 on 14.01.2013. That apart the petitioner do not fulfill 70% of good record criteria for the purpose of remaining in service. Therefore, Annexure P-1 has been issued. Insofar as non-compliance of notice period is concerned, the order dated 22.01.2013 to be given effect on 15.04.2013. Therefore, it is to be presumed that order dated 22.01.2013 would be a notice period.

Heard, learned counsel for the parties.

The petitioner is working by virtue of interim order passed by this Court on 12.04.2013, admittedly the respondents have not complied the Rule 3.26(d). Insofar as the issuance of three months notice to the Government employee before taking any action under Rule 3.26(d) retiring the petitioner, order dated 22.01.2013 (Annexure P-1) a decision has been taken by the respondents to retire the petitioner compulsorily before issuing a notice, in other words action should have been taken subsequent to the completion of notice period. Therefore, presumption cannot be drawn by virtue of order dated 22.01.2013, which states that the petitioner could be compulsorily retired with effect from 15.04.2013.

In view of non-compliance of Rule 3.26(d) of the Punjab Civil Services Rules Vol. I, Part I, order dated 22.01.2013 (Annexure P-1) is

liable to be set aside.

Accordingly, the present petition stands allowed.

(P.B.BAJANTHRI)
JUDGE

March 08, 2017

Sunil Devi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No