

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

**CWP No. 25783 of 2013
Date of Decision: 07.02.2018**

Raj Kumar Conductor (Retd.)

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

The petitioner has been compulsorily retired from service by invoking Rule 3.26 of the Punjab Civil Service Rules Vol-I Part-I. His case for retention in service has been reviewed and he has not been allowed to cross the age of 55 years. The order was passed on 16.01.2013. The entire record of service reveals a case for compulsory retirement, but, the emphasis is on the last 10 years of service. For the year 2005-06, the petitioner was graded as 'below average' and in the column of honesty his integrity was doubted. The appeal against the remarks and grading has been dismissed on 09.11.2012. Besides, the petitioner has been penalized by several orders of recovery of money from time to time. In fact there are as many as 9 such instances for the period from 18.03.2002 to 19.03.2011 with colourful record to the credit of the petitioner. It would not be right to say that the order of

compulsory retirement was passed in abuse of authority.

As per the directions of this Court dated 03.07.2017 calling upon the Transport Commissioner, Haryana to file an affidavit justifying the order dated 01.02.2010 passed in the case of Sh. Raj Pal Conductor, the Director General State Transport, Haryana, Chandigarh has filed his affidavit dated 26.09.2017 in which he candidly admits that the case of Sh. Raj Pal was not correctly decided. Raj Pal has as equally colourful past of adverse entries from the years 1999 to 2008. The entries made by the General Manager were on representation accepted in appeal by the Appellate Authority i.e. Additional Transport Commissioner, Haryana vide order dated 01.02.2010. On setting aside of entry at appellate stage the case of Raj Pal Conductor for extension of service was considered. Despite reported cases of embezzlement by Raj Pal during the period, the remarks were expunged without any corroboration from the record. The Director General, State Transport Haryana has had the strength to say that the Appellate Authority wrongly observed that Raj Pal was a case of double punishment. ACRs should not be mixed up with the concept of recovery of money. It may be remembered that the Director General, State Transport/Transport Commissioner, Haryana filed affidavits in implementation of interim orders of this Court, and, therefore, their affidavits have to be read as an opinion, which opinion I accept as proper justification for passing the order of compulsory retirement.

Resultantly, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

07.02.2018
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Whether speaking/reasoned : *Yes*
Whether reportable : *No*