

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

LPA No.1814 of 2017(O&M)

Reserved on 10.07.2018

Date of decision: 05.12.2018

Kuldeep Singh Rana

... Appellant

Versus

Haryana State Warehousing Corporation, Panchkula and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Suresh Kumar Redhu, Advocate for the appellant.

This is an intra-court appeal under Clause X of the Letters Patent against an order and judgment dated 24.05.2017, rendered by the learned Single Judge, whereby the writ petition preferred by the appellant had since been dismissed.

The petitioner was employed as Manager Grade III with the respondent-Corporation. In terms of Rule 5.32A(C) of the Punjab Civil Service Rules, Volume II read with Rule 3.26(d) of the Punjab Civil Service Rules, Volume I, Part I, the competent authority upon consideration of the service record of the appellant formed an opinion that it was not in public interest to retain him in service upon attaining the age of 55 years and, thus, he was served with a three months' notice, dated 16.01.2013. And upon expiry of the said period, vide a formal order dated 05.04.2013, he was relieved from service. It was in this background, the appellant approached this Court vide a writ petition referred to above. He prayed for setting aside

the letter dated 16.09.2003, vide which the adverse remarks recorded in his ACR for the year 2002-03 were communicated to him, inquiry report dated 05.06.2006, order dated 10.03.2009 (Annexure P14) vide which he was awarded a penalty of simple warning, order dated 10.03.2009 (Annexure P15) whereby his representation against the adverse remarks recorded in his ACR was rejected, order dated 16.01.2013 (Annexure P16) whereby he was served upon three months' notice for retirement from service and also the order dated 05.04.2013 rejecting his representation against the decision of the authorities to compulsory retire him from service.

And upon a consideration of the matter and the material on record, the learned Single Judge, vide impugned order and judgment dated May 24, 2017, reached a conclusion:

“Having regard to the consideration of petitioner's record by the committee on 17.12.2012, it is evident that each and every service record of the petitioner has been taken into consideration read with 'doubtful integrity and reputation for honesty'. Moreover, petitioner has been punished in a departmental enquiry in respect of temporary misappropriation of respondents' money to that extent recovery has been ordered. Therefore, there is no infirmity in the order of compulsory retirement as well as rejection of the petitioner's representation against ACR since the representation had been considered in detail. That apart, there is an inordinate delay of five years in filing the representation against the ACR for the year 2002-03.

Hence, the petitioner has not made out his case so as to interfere in the orders which have been challenged by way of present writ petition.

Accordingly, the present writ petition is dismissed.

No order as to costs.”

We have heard learned counsel for the appellant and perused the record.

Ex facie, the Annual Confidential Report of the appellant for the year 2002-03 was recorded as '**Average**' with '**Integrity Doubtful**'. Concededly, the said remarks were duly communicated to the appellant on 16.09.2003. Even though, the appellant had the option to represent against those remarks within a period of 45 days, but he chose not to avail that option. However, after a lapse of almost 5 years, he served the respondent-authorities with a notice dated 28.12.2008 to expunge the adverse remarks recorded in his ACR. However, the representation furnished by the appellant was considered by the authorities on merits and was rejected vide order dated 10.03.2009. Significantly, the appellant did not question the said order any further and the matter attained finality. Likewise, for the ACR of the year 2003-04, the appellant was evaluated as '**Average**' and the said remarks were communicated to him, vide letter dated 24.09.2004. But, again he chose not to submit any representation against those. Not just that, owing to misappropriation of funds of the Corporation (temporarily), the departmental proceedings under Rule 7 of the HCS (Punishment & Appeal) Rules, 1987 were initiated against the appellant in which 3 of the 4 charges leveled against him were found to have been proved, and a penalty of simple warning was imposed. The competent authority, preceded by a consideration of the matter by a Committee consisting of three Officers on 17.12.2012, upon examining the entire service record of the appellant, reached a conclusion that it was rather in public interest to compulsory retire the appellant from service.

Apparently, what indeed led to assailing the adverse remarks recorded in the ACR of the appellant, communicated on 16.09.2003, inquiry report dated 05.06.2006, order awarding a penalty of simple warning dated 10.03.2009 and the letter of an even date vide which his representation against the adverse remarks was rejected, was the order dated 05.04.2013, vide which his representation against the decision of the authorities to compulsorily retire the appellant from service upon attaining the age of 55 years was rejected. Obviously, the opinion of the respondent-authorities was based upon the adverse remarks as regards his doubtful integrity and his overall service record, and thus the appellant was choice-less but to assail the said remarks and those orders, though after a gross, inordinate and unexplained delay, before he could question the order of his compulsory retirement from service. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the decision arrived at by the respondent-authorities was violative of any law, rule or if his entire record of service was not taken into account.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being devoid of merit is accordingly dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

05.12.2018
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO