

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.536 of 2018 (O&M)
in CWP No. 21711 of 2017
Date of decision: 16.04.2018

Roshan Lal

.... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Surinder Kumar Daaria, Advocate for the appellant.

B.S. Walia, J.

[1] Intra-court appeal has been filed against order dated 07.03.2018 dismissing the writ petition upholding the order retiring the appellant prematurely at the age of 55 years.

[2] The Writ Court dismissed the writ petition on the ground that the judgment passed by the learned Additional Sessions Judge, Gurugram was not a clear acquittal and was based on serious doubt and failure of the State Vigilance Bureau to properly prosecute the trap case. There was reasonable likelihood that the complainant and the shadow witness were suborned and won over in the trial as only the appellant stood to benefit by the somersault of the catalyst witness-complainant, Departmental enquiry based on the involvement of the appellant in the criminal case, concluded by holding the appellant guilty on preponderance of probabilities leading to stoppage of two future increments with temporary effect vide order dated

21.03.2013 besides, appeal against the same to the Commissioner of Police, Gurugram was dismissed vide order dated 09.06.2013.

[3] The Writ Court held that premature retirement was not a punishment nor it involved stigma. The involvement of the appellant in a criminal case cast a dark and ominous doubt on his integrity being a member of a disciplined force, therefore, premature retirement ordered in terms of Rule 144 (iii) of the Haryana Civil Services Rules, 2016 and Rule 9.18 (I) (c) Note of the Punjab Police Rules, 1934 (as applicable to Haryana) did not warrant any interference as continued utility of the appellant in the Department was for the authorities to gauge objectively and in public interest.

[4] Learned counsel for the appellant contended that in view of the acquittal of the appellant in the criminal case, his premature retirement was legally unsustainable and appellant was entitled to continue in service beyond the age of 55 years.

[5] We have considered the submissions of learned counsel for the appellant and are of the view that for the reasons as are recorded hereunder, the appeal must fail, particularly in view of the fact that the acquittal of the appellant was on the basis of benefit of doubt and solely on account of the complainant and the shadow-witness having done a complete somersault while appearing in the witness-box for which they have been proceeded against by the learned Additional Sessions Judge under Section 344 of the CrPC for having given intentionally false statements in Court leading to the acquittal of the accused i.e. appellant. Besides, the complaint pursuant to which the raid was conducted and recoveries etc. made were in the hand of the complainant and the complainant and shadow witness had signed all the recovery memos. Moreover, the complainant had got his statement recorded

under Section 164 CrPC with regard to the complicity of the accused i.e. the appellant in the crime, but subsequently resiled by deposing that the same was not his voluntary statement.

[6] The appellant was proceeded against departmentally for his involvement in FIR No.21 dated 07.10.2009 registered at Police Station State Vigilance Bureau, Gurugram under Sections 7, 8 and 13 of the Prevention of Corruption Act, 1988. The Enquiry Officer held the appellant guilty of the charges levelled against him leading to imposition of stoppage of two future increments with temporary effect vide office order dated 21.03.2013. Appeal filed by the appellant to the Commissioner of Police, Gurugram against the impugned order of punishment was rejected vide order dated 09.06.2013.

[7] In the circumstances, we are of the considered view that the order passed by the Writ Court dismissing the writ petition filed by the appellant does not warrant any interference.

[8] Resultantly, the appeal is dismissed in limine.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

16.04.2018
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.