

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

L. P. A. No. 754 of 2018 (O&M)
in C. W. P. No. 4166 of 2014

Date of decision : 21.05.2018

State of Haryana and others Appellants

vs.

Bhagwan Dass Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Samarth Sagar, Addl. A.G., Haryana
 for the appellants.

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DEEPAK SIBAL, J. :

The present intra court appeal has been filed under Clause X of the Letters Patent to challenge therein order dated 10.01.2018 passed by a learned Single Judge of this Court allowing the writ petition filed by the respondent.

The factual matrix of the matter in brief is that in the year 1981, the respondent was appointed as Daftri, from which post, in May 1992, he was promoted as a Clerk. On 28.10.2003, FIR No. 202 was registered against him at Police Station, Madhuban under Sections 406, 420, 294-A of the Indian Penal Code and Section 4 of the Prize Chits and Money Circulation Scheme Banning Act, 1978. Due to lodging of the aforesaid FIR, he was suspended on 28.10.2005. However, while the criminal proceedings were still pending, he was reinstated on 09.05.2007. On 01.03.2011, the trial court acquitted the respondent. On his acquittal, he

requested the department to promote him as Assistant from the date his juniors had been promoted but no such promotion was granted. Instead, the respondent was served a charge-sheet which was based on the same allegations as in the afore-referred criminal case. In the departmental proceedings which followed, the respondent was found guilty. He responded to the findings of guilt recorded in the Inquiry Report but without considering the same, vide order dated 13.12.2013, the respondent was ordered to be compulsorily retired. Such order of compulsory retirement was challenged by the respondent through a petition which was allowed by the learned Single Judge through the order which is the subject matter of challenge in the present proceedings.

Mr. Samarth Sagar, Addl. A.G., Haryana submitted that the learned Single Judge has erred in quashing the order of compulsory retirement of the respondent as such order had been passed after establishing the respondent's guilt through departmental proceedings which had been conducted after strictly following the procedure prescribed under the applicable rules.

We have heard learned counsel for the appellants and considered the submissions made by him but do not find merit in the same.

It is not disputed that as per the applicable instructions of the Government, only those employees are allowed to cross the age bar of 55 years, who have earned at least 70% 'Good' ACRs during the last ten years of their service and whose integrity has not been doubted. After perusing the respondent's original Service File and Confidential Reports for the

relevant period, the learned Single Judge has duly recorded in his order that for the period from July 1981 to February 1993, the respondent earned five 'Good', six 'Very Good' and two 'Outstanding' reports. As the Service File and Confidential Reports from the year 1993 to 2002 were not produced, an inference was drawn by the learned Single Judge that during this period, there was nothing adverse against the respondent. As per the respondent's service record from 01.04.2003 to 31.03.2004, he was assessed to be 'Good'; from 01.04.2004 to 10.11.2004 as 'Average'; from 08.12.2004 to 31.03.2005 as 'Good'; from 01.04.2005 to 28.10.2005 as 'Good'; from 27.08.2007 to 02.02.2008 as 'Average'; from 01.04.2008 to 28.12.2008 as 'Average'; from 21.02.2009 to 31.03.2009 as 'Average' and from 15.06.2009 to 02.02.2014 as 'Good'.

In view of the above referred Service Record of the respondent, he is found to qualify the benchmark for retention in service beyond 55 years of age, as per the applicable instructions of the Government. He was also acquitted in the criminal case which formed the basis of the disciplinary proceedings against him. Further, before passing the punishment order of compulsorily retiring the respondent, his punishing Authority failed to take any final decision on the representation filed by the respondent to the findings recorded in the Inquiry Report and that the respondent's integrity was never in doubt.

In view of the above, no reason is found to interfere with the findings recorded by the learned Single Judge quashing the order compulsorily retiring the respondent.

Accordingly, the present appeal is dismissed.

No costs.

(RAJESH BINDAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

May 21, 2018
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>