IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-4527-2017 (O&M)
Date of Decision:-20.03.2018.

Anokh Singh

.....Appellant

Versus

State of Punjab and others

......Respondents

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

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Present: Mr. Manish Prabhaker, Advocate for the appellant.

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P.B. BAJANTHRI, J. (Oral)

In the instant appeal, appellant has been terminated from service while he was working as a Conductor with the Punjab Roadways. Punjab Roadways are following the Rules called Punjab Roadways (Operational) State Services Class-III Rules, 1977 (for short "the Rules, 1977"). Under Rule 15 of the Rules, 1977, Punjab Roadways have adopted Punjab Civil Services (Punishment and Appeal) Rules, 1970 (for short "the Rules, 1970").

(2.) Learned counsel for the petitioner submitted that even a terminated employee is entitled to benefit of retiral benefits. He further submitted that termination should be read as compulsory retirement. It was further contended that Supreme Court in the case of ***"Umesh Kumar Sinha Vs. State of Bihar and others"*** reported in ***2010 (6) SCC 718*** interpreted Bihar Pension Rules. Further Rule 43 (b) and 27 (para 4 and 5) wherein it is held that rule provides for withholding of pension includes gratuity. Therefore, the respondent thereunder State of Bihar have erred in withholding of entire gratuity amount. The same principle is applicable in the present petition.

(3.) Heard learned counsel for the appellant.

(4.) Perusal of the Rules, 1970, it do not provides for imposition of penalty of termination. Major punishments are compulsory retirement, removal from service and dismissal. Merely the disciplinary authority used the word termination that does not mean that it is a termination and not relating to any one of the major penalties which are available in the Rules, 1970. Question of equating termination to that of compulsory retirement do not arise for the reasons that termination means removal from service. Therefore, termination is required to be taken into consideration that appellant has been dismissed from service. Disciplinary authority has used the word of termination as misnomer instead of dismissal. Therefore, dismissed employee is not entitled to any monetary benefits under the Rules, 1970. Thus, appellant has not made out a case so as to contend that even a terminated employee is entitled to retiral benefits. Reliance on the Supreme Court decision cited supra, it is to be noted that relevant provision of law is required to be examined for the purpose of deciding the case. The Bihar Pension Rules cannot be equated to that of Rules, 1970 of the Punjab Rules. Supreme Court in the case of ***Nair Service Society vs T. Beermasthan 2009 (2) SCC 545*** in para 48 held as under:-

> "***48.*** *Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State*

> *governing that field. Reservation provisions are enabling provisions, and different State Governments can have different methods of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.*"

In view of the principle laid down in the aforesaid decision, cited decision by the appellant has no assistance to his case, appeal stands dismissed.

(P.B. BAJANTHRI)
JUDGE

March 20, 2018.
sandeep

Whether speaking/reasoned:- Yes / No

Whether Reportable:- Yes / No.