

Civil Writ Petition No. 21778 of 2015(O&M)
Date of Decision : 12.09.2019

Sohan Lal

... Petitioner

versus

The Ludhiana District Coop. Milk Producers Union Ltd.

... Respondent

CORAM:-HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Shelly Mahajan, Advocate
for the petitioner.Mr. Kannan Malik, Advocate
for the respondent.

ARUN MONGA, J(ORAL)

1. The grievance of the petitioner is against order dated 26.09.2015 (Annexure P-1), impugned herein, vide which he was compulsorily retired on attaining the age of 50 years.

2. Having heard the rival contentions of learned counsel for the parties and on perusal of record, I am of the opinion that impugned order has been passed in accordance with provisions of Rule 27.3 of the District Cooperative Milk Producers Union Employees Service(Non Common Cadre) Rules, 1996. For ready reference, Rule 27.3, *ibid*, is reproduced hereinbelow:-

“27.3 Notwithstanding anything contained in Rule 27.1 and 27.2 above, the appointing authority shall, if it is of the opinion after reviewing the entire service record of an employee that he is not fit to be retained in the service and that it is in the interest of the Milk Union, have the absolute right, by giving an employee prior notice of three months, in writing, to retire that employee on the date on which he completes 20 years of service or attains 50 years of age or any date thereafter to be specified in the notice. Provided that where the three months notice is not given to the employee or it falls short of three months, the employee shall be paid salary for the period by which the notice falls short of three months.”

3. A perusal of impugned order *vis-a-vis* Rule 27.3, *ibid*, would show that order has been passed on the basis of service record(Annexure R-1) of the petitioner, which was found not satisfactory. Keeping in view his service record, the respondents were justified to invoke *non obstante* clause of Rule 27.3, in the interest of Milk Union and accordingly the petitioner was retired. In compliance thereof, the petitioner was also offered three months salary in lieu of the notice to be given to him.

4. Learned counsel for the petitioner contends that Rule 27.3 does not provide any safeguard to the employee as there is no safeguard provided therein qua the interest of the employee and the same is completely lopsided in favour of the employer.

5. I would rather refrain to deal with said contention of learned counsel for the petitioner, as in order to appreciate the same one would have to necessarily test the *vires* of the said Rule, which is not under challenge in this writ petition.

6. In view of my discussion and the reasoning contained therein, no ground is made out to interfere with the impugned order dated 26.09.2015 (Annexure P-1). In the premise, the writ petition is disposed of with a direction to the respondents to grant all the consequential benefits to the petitioner arising out of his compulsorily retirement, which as per learned counsel for petitioner, have been withheld till date due to pendency of writ petition.

7. Let the needful be done within a period of 60 days from the date of receipt of certified copy of this order. The petitioner shall be at liberty to challenge Rule 27.3, *ibid*, if so advised, by filing appropriate proceedings.

12.09.2019

Jiten

(ARUN MONGA)
JUDGE

1. Whether speaking/ reasoned:

Yes/ No

2. Whether reportable:

Yes/ No