IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-243-2017(O&M)
Date of decision : 25.11.2019

Harpreet Singh

... Appellant

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Gurminder Singh, Senior Advocate with
Mr. Ramanpreet Singh Bara, Advocate
for the appellant.

Ms.Lavanya Paul, AAG, Punjab.

RAJIV SHARMA, J.

This appeal is instituted against the judgment dated 20.10.2016 rendered by the learned Single Judge in CWP no.25001 of 2014.

The brief facts necessary for adjudication of the present appeal are that the appellant was appointed as Taxation Inspector on 23.08.1988. He was promoted to the post of Excise and Taxation Officer vide order dated 16.10.2002. FIR no.35 dated 21.06.2004 was registered against him by the Vigilance Department. Subsequently untraced report was filed on 23.04.2005. He was reinstated subject to decision of criminal case. Cancellation report was accepted by the Court on 03.01.2006. The period between 21.06.2004 to 08.06.2005 was treated as duty period. He was issued charge sheet on 17.12.2012. He filed reply to the same. He was exonerated. He was asked to tender comments in relation to second charge sheet. Thereafter, committee was constituted under the Chairmanship of

Financial Commissioner (Taxation) whereby the cases of 190 officers/ officials were reviewed. Their entire service record was scrutinized. The ACRs of the appellant for the year 2011-12 was considered. The ACRs for the years 1988-89 to 2012-13 as well as four ACRs for the year 1990-91, 1994-95, 2000-01 and 2011-12 were of average grade. The appellant was served with a notice regarding pre-mature retirement on 12.09.2014 vide Annexure P-17. The appellant filed detailed reply to the same on 26.09.2014 vide Annexure P-18. He submitted parawise reply. The appellant was prematurely retired on 22.10.2014 vide Annexure P-19. The appellant had primarily contended before the learned Single Judge that the decision was in violation of natural justice.

The Punjab Civil Services (Premature Retirement) Rules, 1975 were amended by the Punjab Civil Services (Premature Retirement) First Amendment Rules, 2014 on 05.09.2014 whereby 25 years service in Rule 3 (1)(a) has been substituted to 15, 20, 25, 30 and 35 years of service. The action was taken against the appellant under the amended rules.

Learned counsel for the appellant has drawn the attention of the Court to para 3 of the order dated 22.10.2014.

We have gone through the para 3 of the order. Though the appellant has been permitted to submit reply to the notice dated 12.09.2014, however, the reply filed by the appellant on 26.09.2014 has not been considered. The only averment made in para 3 of the order is that reply was found dissatisfactory. It is not mentioned in what manner the reply was found dissatisfactory. The purpose of issuance of show cause notice is to enable the officer to project his/her case before the competent authority.

Merely stating that the reply was not found satisfactory will not meet the requirement of principle of *audi alteram partem.* The learned Single Judge has not considered this aspect.

Accordingly, the appeal is allowed. The order dated 20.10.2016 of the learned Single Judge is set aside. However, the liberty is reserved to the State to proceed with the matter, in accordance with law, after considering the reply submitted by the appellant on 26.09.2014 to the notice dated 12.09.2014.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

November 25, 2019.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No