

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

104

RSA-2276-1993(O&M)  
Date of decision: 09.11.2023

SADHU RAM (DECEASED) THROUGH LRS ..Appellant

Versus

HARYANA STATE ELECTRICITY BOARD  
& OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajinder Goel, Advocate  
for the appellant.

ANIL KSHETARPAL, J(Oral)

CM-9874-C-2023

1. For the reasons stated in the application which is supported by an affidavit, the application for bringing on record the legal representatives of deceased late Sh. Sadhu Ram [appellant], is allowed, subject to all the just exceptions.

2. The amended memo of parties is taken on record.

3. CM stands disposed of.

**Main case**

4. In this regular second appeal, the correctness of the judgment and decree passed by the First Appellate Court is called in question by the plaintiff now represented by the legal representatives. The appellant in the public interest was prematurely retired from service. The order was not stigmatic.

5. The plaintiff challenged the correctness of such order by filing a civil suit. The trial Court decreed the suit on the ground that there were

uncommunicated adverse reports, which could not be relied upon. However, the First Appellate Court on reappreciation of evidence has held that the impugned order is not a punishment and if the order has been passed after due satisfaction of the principle of natural justice, the scope of interference by the Court is limited.

6. It has come on record that the competent authority while retiring the appellant, took into consideration annual confidential reports for last 15 years.

7. The learned counsel representing the appellant contends that the impugned order was passed by the competent authority in exercise of power under Rule 3.26(d) of the Punjab Civil Service Rules, Volume I, Chapter III read with Rule 5.32(c) of the Punjab Civil Service, Volume II, which does not exist on the statute book.

8. This Court has considered the submissions of the learned counsel representing the appellant.

9. On being confronted, the learned counsel representing the appellant admits that Rule 3.26(d) of the Punjab Civil Service Rules, Volume I, Chapter III, enables the appointing authority to retire any government employee on fulfillment of certain mandatory conditions.

10. Rule 3.26(d) of the Punjab Civil Service Rules, Volume I, Chapter III, is extracted as under:-

*“3.26. (a) Except as otherwise provided in this rule, the date of retirement of a Government employee shall be as follows, namely:-*

*(i) fifty-eight years in the case of Group ‘A’, ‘B’ and ‘C’ employees; and*

*(ii) sixty years in the case of Group ‘D’ employees;*

*Provided that if the State Government is of the opinion that it is necessary and expedient so to do in public interest, the Service of a Government employee or*

*a class of Government employees, may be extended for a period of two years on yearly basis, subject, however, to giving an option within a period of three months before the date of retirement by the Government employee, who seeks extension:*

*Provided further that a Government employee, who is already on extension, shall also give fresh option within a period of one month from the date of publication of these rules:*

*Provided further that no Government employee, shall be retained in Service, after the completion of his extended period of Service. However under exceptional circumstances, if the State Government considers it necessary and expedient so to do in public interest, it may extend the Service of a Government employee beyond the aforesaid limit, for the reasons to be recorded, in writing.*

*(b) Notwithstanding anything contained contrary in these rules or any other rules for the time being in force, during the extended period of Service under clause (a), the Government employee shall be entitled to pay equal to the pay last drawn by him, on attaining the age of fifty-eight years or sixty years including an employee, who is already on extension, as the case may be:*

*Provided that the Government employee, whose Service is extended, shall not be entitled to, –*

- (i) promotion;*
- (ii) the benefit of Assured Career Progression;*
- (iii) an annual increment; and*
- (iv) any revision of pay made by the State Government:*

*Provided further that the pay of the Government employee already on extension, who has been given promotion or the benefit of Assured Career Progression during the extended period till the issue of this notification, shall be protected and he shall be given the retiral benefits on the basis of his protected pay.*

*(c) A member of the Punjab Civil Services (Judicial Branch) or the Superior Judicial Service shall be required to retire on attaining the age of sixty years if High Court is satisfied of his continued utility to the judicial system, subject to evaluation of his potential by making an objective assessment of his work, conduct and integrity and also keeping in view the reputation acquired by him as a Judicial Officer and has passed an order in this regard, otherwise the Judicial Officer will retire at the age of fifty eight years.*

***Explanation:—****The decision to enhance the age of superannuation for the officers of the Punjab Civil Services (Judicial Branch) and of Superior Judicial Service has been taken in pursuance of decision of the Supreme Court dated the 24th August, 1993 in Review Petition No. 249 of 1992 in Writ Petition No. 1022 of*

1989 and shall be applicable in consonance with guidelines laid therein.

(d) Notwithstanding anything contained in this rule a Government employee whose date of birth falls on any day of month other than the first of that month, shall on attaining the age of superannuation determined in accordance with the provision of clause (a), (b) or (c) as the case may be, retire on the last day of that month, which will be a working day.

**Explanation.**—A Government employee whose date of birth is the first of the month shall retire on the afternoon of the last day of the preceding month.

**Note 1.**—Omitted.

**Note 2.**—Military Officers serving in Civil employ shall cease to be in such employ on reaching the age of 58 years.

**Note 3.**—Clauses (a) and (b) of this rule apply to all Government employees to whom these rules as a whole apply, whether they be holding temporary or permanent posts substantively or in an officiating capacity. When a Government employee holding a permanent post substantively is officiating in another post, this rule should be applied according to the character of the post in which he is officiating and not according to the character of the permanent post held substantively by him.

**Note 4.**—Omitted.

**Note 5.**—Regarding the day of attaining a specified age, see rule 2.5.

**Note 6.**—This rule is applicable to re-employed personnel and the rules in Chapter VII of Volume II of these rules are subject to the conditions laid down in this rule. Rule 7.17 of Volume II of these rules, however, from the nature of its concession and conditions puts the re-employment of a person in receipt of a superannuation or retiring pension in a special class outside this rule and subject to the conditions stated in that rule itself which must be observed with every renewal of sanction.”

11. Even if the argument of the learned counsel representing the appellant is assumed to be correct that Rule 5.32(c) of the Punjab Civil Service, Volume II, does not deal with the retirement, still the appointing authority while passing the impugned order has referred to Rule 3.26(d) of the Punjab Civil Service Rules, Chapter III of Volume I.

12. Moreover, in a recent judgment passed by the Supreme Court in **Central Industrial Security Force Vs. Head Constable (G.D.) Om Prakash, Civil Appeal No.5428 of 2012, decided on 04.02.2022**, it has been held that the government is entitled to consider the entire service record and unless the order is found to be based on arbitrary or capricious grounds vitiated by malafides, the Court should not interfere in the matter.

13. In this case, the appellant has failed to make out a case for interference particularly when the impugned order is not shown to have been passed for any malafide reasons.

14. Hence, no ground to interfere is made out.

15. Dismissed.

16. All the pending miscellaneous applications, if any, are also disposed of.

November 09<sup>th</sup>, 2023

(ANIL KSHETARPAL)  
JUDGE

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