

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

108

2023:PHHC:146877

**RSA-1986-1999(O&M)
Date of decision: 20.11.2023**

STATE OF PUNJAB AND OTHERS

..Appellants

Versus

NARANJAN SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Arora, AAG, Punjab.

Mr. Rahul Sharma, Advocate
for the respondent.

ANIL KSHETARPAL, J(Oral)

1. On 11.07.1989, two different orders were passed by the Senior Superintendent of Police, Faridkot, with respect to the plaintiff (Naranjan Singh). Through the first order, he was found to have misconducted resulting forfeiture of his one year service. By a separate order of the even date, the respondent was retired from service as he had already completed more than 25 years of service and was more than 50 years of age. He filed a suit challenging the correctness of the aforesaid orders. Both the Courts have held that the order dated 11.07.1989, while prematurely retiring the respondent from service is illegal, null and void on the following three grounds:-

- i. The order has been passed by the Senior Superintendent of Police, Faridkot, who had no jurisdiction;
- ii. The order retiring the respondent prematurely is without considering his entire service record; and
- iii. The respondent has been punished twice and therefore, it amounts to double jeopardy.

2. On 20.07.2023, the following order was passed:-

*“Learned counsel representing the parties are ad idem that on the issue of competence of Senior Superintendent of Police to pass an order of compulsory retirement of non-gazetted rank of Sub-Inspectors has been settled in **State of Punjab V. Manohar Lal, 1987 AIR (SC) 201**, and therefore, the judgment of the first appellate court on that aspect is required to be set aside. However, the learned counsel representing the respondent submits that the order retiring the respondent compulsorily is manifestly erroneous as his service record was excellent.*

Learned State counsel prays for some time to prepare the case.

Adjourned to 25.08.2023.”

3. As regards first issue, the case of the respondent is covered against him by the judgment noticed in the order dated 20.07.2023.

4. The learned counsel representing the appellant has submitted that the respondent was not retired as a punishment but he was retired prematurely in the public interest. While referring to the order, he submits that the order has been passed under Rule 3 of the Punjab Civil Services (Premature Retirement) Rules, 1975.

5. The learned counsel representing the respondent does not dispute that fact and submits that the respondent cannot be said to have been punished twice for the same misconduct. However, he submits that the entire record of the respondent was good and therefore, he could not be retired.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. In **Central Industrial Security Force vs. Head Constable (GD) Om Parkash, 2022(5) SCC 100**, the employer’s enabling power to retire the employee prematurely has been considered. It has been held that the

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Court can interfere only if it is found that the order was passed by malafides or it was passed on the basis of material, which was non-existent.

8. In this case, it has come in evidence that the respondent was not only punished for misconduct in the year 1989, even his prior service record was not upto the mark. He was found to be have consumed liquor and there were adverse entries in his various annual confidential reports (ACR's).

9. Keeping in view the aforesaid facts, the appeal is allowed. The judgment and decree passed by both the Courts below is set aside.

10. Disposed of accordingly.

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

November 20th, 2023

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(ANIL KSHETARPAL)
JUDGE

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