

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102 CM-7274-CWP-2024 in/&
CWP-1254-2007
Date of Decision :06.05.2024

Rajinder Singh ...Petitioner

Versus

The Director, Panchayats, Haryana
and anotherRespondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vijaydeep Rathee, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

CM-7274-CWP-2024

Present application has been filed for fixing the actual date of
hearing in the main writ petition.

Keeping in view the averments made in the application, which
are duly supported by an affidavit, application is allowed. Main writ petition
is taken up for hearing today itself.

CWP-1254-2007

1. In the present petition, challenge is to order dated 06.11.2006
(Annexure P/6) by which, the petitioner was compulsorily retired from
service.

2. Learned counsel for the petitioner argues that there was an FIR

registered against the petitioner due to which the petitioner was compulsorily retired from service by passing the impugned order whereas, in the said FIR the petitioner has been acquitted though, by giving him benefit of doubt hence, once, the basis of the order impugned no longer exists, the respondents are liable to be directed to treat the petitioner having continued in service beyond the age of 55 years.

3. Learned counsel for the respondents on the other hand argues that keeping in view the total service record of the petitioner, coupled with the fact that serious allegations of embezzlement of government funds were alleged against the petitioner in the said FIR, it was appropriate not to retain the petitioner in service beyond the age of 55 years and he was rightly compulsory retired by not giving him extension in service. Learned counsel for the respondents further submits that in the said FIR also, witnesses had turned hostile, which led to the acquittal of the petitioner by giving him benefit of doubt, which does not amount to honourable acquittal hence, order dated 06.11.2006 (Annexure P/6) is liable to be upheld.

4. I have heard the learned counsel for the parties and have gone through the record with their able assistance.

5. As per law, an employee is entitled to continue in service upto the age of 58 years but keeping in view the rules governing the service, a jurisdiction has been given to the State to decide as to whether an employee, who has attained the age of 55 years is to be allowed to continue in service till the age of superannuation or not keeping in view his/her service record.

The assessment is to be made on the basis of the facts and circumstances of

each case and in the present case, due consideration was given by the respondents and keeping in view the fact that allegations alleged against the petitioner were of embezzlement of government funds, the petitioner was rightly not given extension in service beyond the age of 55 years and he was compulsorily retired from service vide impugned order dated 06.11.2006.

6. The only argument which has been raised by the learned counsel for the petitioner is that subsequent to the order of compulsorily retirement of the petitioner, he has been acquitted in the FIR.

7. It may be noticed that the said acquittal of the petitioner is not a honourable acquittal but it is only on the basis of benefit of doubt. In the said FIR, witnesses have turned hostile, which led to the acquittal of the petitioner by giving him benefit of doubt. Once, the witnesses have turned hostile, it cannot be said that any benefit of the said acquittal can be given to the petitioner so as to allow him to continue in service upto the age of superannuation. The criteria which has to be adopted by the State in service matter is different as compared to the guilt required to be proved in the criminal case.

8. Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the present petition is accordingly dismissed.

9. Civil miscellaneous application pending, if any is also disposed of.

May 06, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No