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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-1136-2022

DATE OF DECISION: JULY 8, 2024

GURNAM SINGH

...APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL.
HON'BLE MR. JUSTICE DEEPAK MANCHANDA.**

PRESENT: MR. G.S. BRAR, ADVOCATE FOR THE APPELLANT.

DEEPAK MANCHANDA, J.

1. Through this intra-Court appeal, the appellant has assailed the impugned judgement dated 21/09/2022 passed by the learned Single Judge whereby the writ petition seeking quashing of the impugned order dated 28/12/2015 (Annexure P-6) passed by respondent No.4, compulsorily retiring the appellant from service on attaining the age of 55 years, was dismissed.

2. The facts emanating from the pleadings of the present appeal are that the appellant joined as a Constable on 06/08/1985 and was promoted upto E/ASI and was compulsorily retired on 31/12/2015, for taking illegal gratification of Rs.100/-, where a DDR No.48 dated 30/10/2010 was recorded, an enquiry was ordered, and the appellant was charge-sheeted, who was placed under suspension. Thereafter, the punishing authority vide order dated 02/09/2011 ordered punishment of stopping of 5 annual increments with permanent effect. Aggrieved against the same, an



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appeal and the revision petition were filed by the appellant which were also dismissed vide orders dated 16/12/2011 and 13/07/2012 (Annexure P-2 and Annexure P-3, respectively). After that, the appellant preferred a civil suit, which was decreed in his favour by the trial Court vide judgement and decree dated 28/07/2015 (Annexure P-4), where the order of punishment was set aside, and the appeal filed by the Department against the said judgement and decree was dismissed on 04/02/2016 by the District Judge, Fatehabad. Despite the punishment of stoppage of 5 increments having been set aside by the trial Court, respondent No.4 in terms of provisions of the Punjab Police Rules as applicable to the State of Haryana, vide order dated 28/12/2015 (Annexure P-6) compulsorily retired the appellant with effect from 31/12/2015. The said order was challenged by filing Civil Writ Petition No.26801 of 2015 by the appellant, which has been dismissed vide impugned judgement dated 21/09/2022, and the same is under challenge through this intra-Court appeal.

3. Learned counsel for the appellant contends that learned Single Judge did not appreciate the findings recorded by the trial Court while passing the judgement and decree in favour of the appellant and dismissed the writ petition only on the ground that the appellant was not compulsorily retired from service merely based on punishment of stoppage of 5 annual increments awarded to him, but taking into consideration other parameters as well, which is not justified.

4. Heard.

5. We have perused the material available on record and the only



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question that needs to be adjudicated while deciding the present appeal is whether the appellant has been rightly compulsorily retired based on his service record. The learned Single Judge while deciding the Civil Writ Petition filed by the appellant perused the entire service record from the period 01/04/2010 to 26/10/2010 and 01/04/2011 to 03/11/2011, where the integrity of the appellant was found to be doubtful and his service record was not satisfactory enough to allow him to serve the Department beyond the age of 55 years. Pursuant to same, Three months' notice was served upon the appellant and the learned Single Judge, observed that he did not reply to said notice and consequently, the respondents passed the order dated 28/12/2015 prematurely retiring the appellant from service, which was challenged in the writ petition.

6. The learned Single Judge relying upon the judgements of the Hon'ble Supreme Court in **Baikunth Nath Das and others vs. Chief District Medical Officer, Baripada, AIR 1992 SC 2019**, as well as the judgement passed by the Division Bench of this Court in the case of **Ram Dhari versus State of Haryana and others, 2019(3) SCT, 678** dismissed the writ petition on the grounds that a compulsory retirement order, looking at the overall service record of a Government employee, can be passed in public interest to improve the efficiency of the Institution and to remove dead wood as same is not a punishment nor does it attach any stigma on the employee. Secondly, even a single adverse entry in the ACR showing the integrity of an employee to be 'doubtful' is enough to order his compulsory retirement, which can be easily analyzed in adverse remarks for the period

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01/04/2010 to 26/10/2010 . Moreover, the plea raised by the appellant that the whole issue was dealt with by the trial Court while passing the judgement and decree dated 28/07/2015 is factually incorrect. The perusal of impugned judgement passed by the learned Single Judge would show that learned Single Judge after thoughtful consideration made a mention that the adverse remarks as relied upon by the Authority in notice dated 12/08/2015 were not expunged and it was only the punishment which had been set aside by the civil Court and though the issue of expunging the adverse remarks for the period 01/04/2011 to 03/11/2011 was argued before the civil Court, but the said prayer was declined vide judgement dated 28/07/2015.

7. In light of the above, the writ petition filed by the appellant has been rightly dismissed by the learned Single Judge and we do not find any perversity and illegality in the impugned judgement. Hence, the same does not require any interference at our end.

8. Consequently, this intra-Court appeal is dismissed.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

July 8, 2024
Gulati

Whether Reportable	:	Yes/No
Whether Speaking/Reasoned	:	Yes/No