

(1994) 07 RAJ CK 0088
In the Rajasthan High Court
Case No : Civil Writ Petition No. 583 of 1986

Ganga Ram Joshi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 22-07-1994

Acts Referred:

Citation : (1994) 2 RLW 639 : (1995) 1 WLC 332 : (1994) 2 WLN 551

Hon'ble Judges : Gokal Chand Mital, C.J;P.P. Naolekar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Gokal Chand Mital, C.J.—The petitioner was working on different posts ranging from Lower Division Clerk to Reader in judicial courts in Rajasthan. In the year 1985 on account of two different lapses departmental enquiry was ordered against him. While the departmental enquiry was pending, it was found that he had completed qualifying service of 25 years. The departmental proceedings were dropped and on account of his work and conduct being not satisfactory, in public interest in exercise of powers conferred under Rule 244 (2) of the Rajasthan Service Rules, 1951 he was compulsorily retired. The order of compulsory retirement has been challenged in this writ petition.

2. Allegation of malafide was raised against the District Judge but we have considered the matter and are of the opinion that the allegations are vague and are lacking in material particulars for recording a finding in favour of the petitioner.

3. Adverting to merits of the case, we have come to the conclusion that the order of compulsory retirement is not by way of penalty or punishment and was based on the fact that the work and conduct of the petitioner was not good. Under these circumstances, Rule 244 (2) of the Rajasthan Service Rules does give power to pass an order of compulsory retirement in public interest. There were adverse entries in his ACRs. which coupled with the fact that the work and

conduct was not found satisfactory, the order would be unassailable.

4. In two recent decisions of the Supreme Court such order has been held not to be by way of punishment or punitive and the orders were maintained. It was also concluded that if uncommunicated adverse remarks are taken into consideration, the order of compulsory retirement cannot be held to be erroneous. Reference in this behalf may be made to Baikuntha Nath Das and another Vs. Chief District Medical Officer, Baripada and another, . Usefully reference may also be made to Posts and Telegraphs Board and others Vs. C.S.N. Murthy,

5. On the basis of the aforesaid two decisions, we are of the view that the impugned order of compulsory retirement does not suffer from any illegality. Accordingly, the writ petition is dismissed.