

(1993) 10 AHC CK 0015

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 7626 of 1976

Kameshwar Nath Srivastava

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 12-10-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1994) 2 AWC 931

Hon'ble Judges : D.S. Sinha, J

Bench : Single Bench

Advocate : B.P. Srivastava, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—List has been revised. No body is present on behalf of the Petitioner to press this petition. Sri K.S. Chauhan, learned Counsel representing the Respondents has been heard in opposition to the writ petition.

2. By means of this petition, under Article 226 of the Constitution of India, the Petitioner, an erstwhile employee of the Collectorate, Ballia, seeks to challenge the two orders dated 16th September, 1975 and 31st July, 1979, copies whereof are Annexures VIII" and "IX" to the petition respectively. By the order dated 16th September, 1975, the Petitioner was retired compulsorily on attaining the age of fifty year and by the order dated 31st July, 1979, the U.P. Public Services Tribunal, No. 1, Lucknow rejected the claim-petition of the Petitioner against the order of compulsory retirement dated 16th September, 1975 and affirmed the same.

3. It appears that, before the order retiring the Petitioner compulsorily was passed, a screening committee was constituted to consider the desirability of retaining such employees who had completed the age of fifty years. The case of the Petitioner was also considered by the screening committee. Before the screening committee following two entries in the character roll of the Petitioner,

awarded in the years 1968-69 and 1970-71, were there:

(a) "that he proved to be Inefficient and dull worker who cannot take even dictation correctly and put up draft. He often wrote incorrect order-sheet showing his insincerity to his work; his work was not satisfactory. He is incompetent and rough in dealing"; and

(b) that he "has been found negligent and careless in supervising the work of preparation of annual accounts in W.B.N. Office Severely warned. He should improve."

4. The Tribunal has found that above two entries were sufficient to support the conclusion of the appointing authority that the retention of the Petitioner in service beyond the age of fifty years was not in public interest. The finding of the Tribunal cannot be termed as perverse. Likewise, the order of the appointing authority retiring the Petitioner from service compulsorily also cannot be said to be illegal in any manner.

5. Otherwise also, it is well settled that an order of compulsory retirement of a Government servant is not an order of punishment. It is actually a prerogative of the Government to retire a Government servant compulsorily on its subjective satisfaction provided the order is not malafide or based on no evidence or perverse. (See: Union of India (UOI) and Others Vs. Dulal Dutt, , and Baikuntha Nath Das and another Vs. Chief District Medical Officer, Baripada and another, .

6. For the foregoing reasons, the court is clearly of the opinion that the impugned orders are perfect and call for no interference by this Court in exercise of its special and extraordinary jurisdiction under Article 226 of the Constitution of India.

7. In the result, the petition fails and is dismissed. There will be no order as to costs.