
(2005) 04 JH CK 0053
In the Jharkhand High Court
Case No : L.P.A. No. 147 of 2001

Krishna Chandra Das

APPELLANT

Vs

Government of India and Others

RESPONDENT

Date of Decision : 21-04-2005

Acts Referred:

Fundamental Rules — Rule 56

Citation : (2005) 3 JCR 336

Hon'ble Judges : Altamas Kabir, C.J;R.K. Merathia, J

Bench : Division Bench

Advocate : B.K. Prasad, for the Appellant; J.P. Gupta, Asst. S.G.I., for the Respondent

Final Decision : Dismissed

Judgement

1. The appellant was enrolled as Sub-Inspector (Exe) in Central Industrial Security Force (hereinafter referred to as "C.I.S.F.") with effect from 1st June, 1972. He was thereafter promoted to the rank of Inspector (Exe) with effect from 25th July, 1992. Admittedly, he attained the age of fifty years on 25th January, 1999.
2. On his attaining the age of fifty years, his case came up for review before the Review Committee headed by the Director General, Central Industrial Security Force to assess his suitability or otherwise for further retention in the Force having regard to the provision of Rule 56(j) of the Fundamental Rules.
3. As will appear from the order issued on 30th October, 2000, the appellant was not found fit by the Review Committee for retention in service and, accordingly, he was prematurely retired from service with immediate effect in the public interest from 1st July, 2000.
4. Challenging the said order, the appellant filed a writ application, being C.W.J.C. No. 721 of 2001, in this Court and same was dismissed by order dated 20th February, 2001 by the learned single Judge upon holding that compulsory

retirement or premature retirement is not a punishment and that such an order was required to be made on the subjective satisfaction of the concerned authority.

5. Aggrieved by the order of the learned Single, the appellant preferred the instant appeal which was summarily dismissed. The appellant moved the Hon''ble Supreme Court against such summary dismissal and the matter was remitted back to this Court for reconsideration of the appellant's appeal after giving him an opportunity of hearing.

6. As will appear from the records, a direction was given to the respondents to file supplementary counter affidavit providing the details on the basis whereof the Review Committee took a decision that the services of the appellant should not be extended in view of the provision of Rule 56(j) of the Fundamental Rules. Such affidavit has been duly filed and the reasons recorded in the order of the Review Committee have been dealt with.

7. Appearing in support of the appeal, Mr. Prasad submitted that in the absence of any finding regarding the competence of the appellant and his right to continue in service, the authorities have wrongly invoked the provision of Rule 56(j) of the Fundamental Rules. He relied on several decisions of the Hon''ble Supreme Court which are however, not related to compulsory retirement but termination of service which obviously stand on two different footings. One of the decisions relied upon by Mr. Prasad, in fact, supports the observation made by the learned single Judge to the extent of compulsory retirement, but Rule 56(j) of the Fundamental Rules is not a punishment as it does not take away any of the past service. In view of the supplementary counter affidavit filed on behalf of the respondents, it cannot also be contended that the decision taken by the authorities to compulsorily retire the appellant was in any way arbitrary.

8. For the reasons aforesaid, we see no reason to interfere with the order of the learned single Judge. The appeal is, accordingly, dismissed.

There will be no order as to costs.