
(2008) 03 P&H CK 0141
In the Punjab And Haryana At Chandigarh

Raghubir Singh

APPELLANT

Vs

Indian Red Cross Society and Others

RESPONDENT

Date of Decision : 04-03-2008

Acts Referred:

Citation : (2008) 117 FLR 1000 : (2008) 3 LLJ 218 : (2008) 2 PLR 383

Hon'ble Judges : Mohinder Pal, J; Hemant Gupta, J

Bench : Division Bench

Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to the order Annexure P7 wherein the petitioner was not granted extension beyond the age of superannuation i.e. 58 years as on 31.10.2002. It is the case of the petitioner that he is entitled to extension in age i.e. upto the age of 60 years in view of his service record. However, such request was declined by the aforesaid order dated K9/23.12.2002 (Annexure P7).

2. In a writ petition, an order was passed by this Court on 14.01.2003 permitting the petitioner to retain the official accommodation allotted to him till the next date of hearing. The writ petition came up for hearing on 17.05.2005 and the same was dismissed as infructuous on the statement of the learned Counsel for the petitioner. The petitioner was allowed to retain the premises for a period of one month but with a liberty to the Board to recover the arrears of rent as per Rules. Subsequently, on a review application filed by the petitioner, the said order was re-called and that is how, the matter is placed before us.

3. It is not disputed that the normal age of superannuation for the employees working in the Indian Red Cross Society is 58 years. The petitioner attained the age of 58 years on 31.10.2002. The petitioner applied for extension in age till the age of 60 years, which was declined to the petitioner vide order impugned in the writ petition. The extension in age is not a right which can be claimed by the petitioner. Still further, the petitioner has not made any effort to dispute the order Annexure P7 in the present writ petition. In fact it was stated that the provision of extension in age has since been deleted. The only dispute in the writ

petition is to the order Annexure P10 whereby the penal rent is sought to be recovered from the retiral benefits payable to the petitioner.

4. Learned counsel for the petitioner has vehemently argued that order Annexure P10 has been passed without giving any opportunity of hearing to the petitioner and by virtue of the said order, the amount of gratuity and leave encashment has been withheld. Any such amount from gratuity and leave encashment cannot be withheld without giving any show cause notice and opportunity of hearing to the petitioner.

5. We find merit in the argument raised by the learned Counsel for the petitioner. The withholding of the amount of gratuity and leave encashment affects the civil rights of the petitioner. Therefore, the same cannot be effected without giving any opportunity of hearing to the petitioner. In view of the said fact, we set aside the order Annexure P10 and consequential orders Annexures P11 and P13 with liberty to the respondents to recover the amount of penal rent, as may be justified in law, after giving opportunity of hearing to the petitioner. The process be completed within 3 months from today. On completion of process, the balance of retiral benefits, if any due, shall be paid to the petitioner.