

(2010) 03 P&H CK 0096
In the Punjab And Haryana At Chandigarh

Rulda Ram

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 15-03-2010

Acts Referred:

Citation : (2010) 03 P&H CK 0096

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The petitioner challenges the order of compulsory retirement on the ground that the order had been passed without setting out any kind of reason. Referring to the relevant Rule 3.26, where the appointing authority could compulsory retire an employee after issuing a notice, three months in advance only in public interest, in this case, the impugned order of compulsory retirement made on 16.6.1987 and the notice that preceded on 9.3.1987, made no reference to the termination of service as obtaining for public interest and hence invalid.

2. Learned counsel for the petitioner also refers to judgment of Baldev Raj Chadha Vs. Union of India (UOI) and Others, that in the case of compulsory retirement, it shall be the duty of the administration to show that the compulsory retirement became necessary in public interest. Sounding of an impassioned plea on behalf of a person in twilight years of service, the Hon'ble Supreme Court held as follows:

...There is no demonstrable ground to infer mala fides here and the only infirmity alleged which deserves serious notice is as to whether the order has been made in public interest. When an order is challenged and its validity depends on its being supported by public interest the State must disclose the material so that the court may be satisfied that the order is not bad for want of any material whatever which to a reasonable man reasonably instructed in the law, is

sufficient to sustain the grounds of "public interest" justifying forced retirement of the public servant. Judges cannot substitute their judgment for that of the Administrator but they are not absolved from the minimal review well-settled in administrative law and founded on constitutional obligations. The limitations on judicial power in this area are well known and we are confined to an examination of the material merely to see whether a rational mind may conceivably be satisfied that the compulsory retirement of the officer concerned is necessary in public interest.

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3. The case has been of the year 1989 and to this date, there has been no response at all. There is no written plea to justify the action and how the compulsory retirement came about without considering the issue of public interest, as required to be spelled out by the relevant Rule referred to above.

4. The order of compulsory retirement shall stand quashed, which would mean that the petitioner should treat himself to have continued in service till he had attained the age of superannuation, which in this case is 58 years. The petitioner shall not, however, be entitled to any monetary benefits. It shall be relevant for him only for the purpose of working out his retirement benefits by reckoning the period of service as obtained till the age of superannuation of 58 years. The retirement benefits shall be calculated and accorded to the petitioner within a period of three months.

5. The writ petition is allowed in above terms.