
(2012) 09 P&H CK 0362
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 2071 of 2011 (O and M)

Tejender Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 12-09-2012

Acts Referred:

Citation : (2012) 168 PLR 657

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : R.S. Mamli, for the Appellant; Harish Rathee, D.A.G., Haryana, for the Respondent

Judgement

Augustine George Masih, J.—Petitioner has approached this Court impugning the order of his premature retirement dated 21.08.2009 (Annexure P-8) vide which he has not been allowed to continue till the age of 58 years. This order has been challenged by the petitioner on the ground that the same is violative of the policy decision of the Government of Haryana, according to which, if an employee has 70% good reports in the last 10 years preceding the date when a decision is taken not to retain him, the order of compulsory retirement cannot be passed. Counsel for the petitioner contends that the petitioner was appointed as a Constable in the respondent-department on 01.09.1974. He was promoted as a Head Constable on 01.08.1989 and thereafter, promoted as Assistant Sub-Inspector on 23.12.2002. A show cause notice was issued by the Director General of Police, Haryana-respondent No. 2 for compulsorily retiring the petitioner on the basis of the remarks recorded in his Annual Confidential Reports for the period from 07.12.1994 to 31.03.1995, 26.04.2006 to 31.03.2007 and 01.04.2007 to 31.03.2008. This show cause notice is dated 23.03.2009 (Annexure P-4). Petitioner filed reply to this show cause notice but the same was not accepted. The petitioner was, on expiry of three months, relieved from duty.

2. Petitioner preferred an appeal against the said order before the Inspector General of Police, Railways and Technical Services-Haryana-respondent No. 3 but

the said appeal was not accepted. Thereafter, the revision petition preferred by the petitioner before the Director General of Police-respondent No. 2 was also dismissed. Petitioner has thus approached this Court assailing the order of his compulsory retirement dated 21.08.2009 (Annexure P-8) on the ground that the same is in violation of the instructions issued by the Government of Haryana dated 13/14.04.1964 and instructions dated 19.11.1991, according to which, Government employees can be compulsorily retired only if they have not earned 70% good reports during the last 10 years and if there is an entry to the effect that the integrity is doubtful. In the last 10 years of the services of the petitioner i.e. from 01.04.2000 to 13.08.2009, when he was compulsorily retired, not even a single entry has been recorded which would suggest that the petitioner had doubtful integrity. Out of the 10 Annual Confidential Reports for the period in question, 7 reports are good, 2 are bad and 1 is satisfactory. Petitioner, therefore makes the benchmark fixed by the respondents in their instructions which would entitle him to continue till the age of superannuation. The order retiring the petitioner compulsorily, therefore, cannot sustain and deserves to be set aside.

3. On the other hand, counsel for the respondents states that the petitioner has rightly been compulsorily retired keeping in view his conduct and misbehaviour with the senior colleagues and his co-employees. He was not a disciplined officer and, therefore, action has rightly been taken by the respondents. He is unable to dispute the fact that the petitioner has 7 good reports in the last 10 years of his service career and there is no report, which would indicate that the integrity of the petitioner to be doubtful. He insists that during the period 2006-2007, a punishment of censure was imposed upon him and during the period 2007-2008, three increments of the petitioner were stopped with cumulative effect. He, on this basis, contends that the writ petition is devoid of merit and does not call for any interference by this Court.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

5. The fact that the petitioner has 7 good reports in the last 10 years of his service is not in dispute. The benchmark, which has been fixed by the respondents in their instructions for compulsorily retiring the Government employee, is that he should have not less than 70% good reports and there should not be any entry doubting his integrity. The petitioner fulfills the benchmark, as has been laid down by the respondents in their instructions and, therefore, the impugned order cannot sustain.

6. It has been brought to the notice of the Court that the petitioner, during the pendency of the writ petition, has since retired.

7. In the light of the above, the petitioner cannot be reinstated in service. However, the impugned order dated 21.08.2009 (Annexure P-8) passed by the Superintendent of Police, Railways (H), Haryana cannot sustain and is hereby quashed. A direction is issued to the respondents to grant the petitioner all the

consequential benefits, which would include pensionary benefits as well. The same be calculated and released to the petitioner within a period of three months from the date of receipt of certified copy of this order.

The writ petition stands disposed of accordingly.