

PETITIONER:
HARYANA STATE ELECTRICITY BOARD

Vs.

RESPONDENT:
K.C. GAMBHIR

DATE OF JUDGMENT: 24/04/1997

BENCH:
S.C. AGRAWAL, G.T. NANAVALI

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

NANAVALI, J.

Leave granted.

Heard learned counsel for both the sides.

This appeal is directed against the judgment and order dated 22.8.1996 passed by the High Court of Punjab and Haryana in C.W.P.No.6073 of 1996.

The respondent was an employee of Haryana State Electricity Board. He was retired from service on 3rd February, 1994, about 9 months before the date of superannuation. He challenged that action of the appellant Board by filing a writ petition in the Punjab and Haryana High Court. It was the case of the respondent that he was promoted as Executive Engineer on 19th February, 1977. when he attained the age of 50 years his case was considered for retirement/retention in service. It was decided on 30.11.1986 to continue him in service. Again his case was considered when he attained the age of 55 years and it was decided on 30.11.1991 to continue him in service. His service record was good, as on the basis of overall assessment for the last 10 years, the percentage of good reports was 77%. It was, therefore, not proper for the appellant to retire him before he attained the age of 58 years. He had challenged the said action as arbitrary and illegal.

It was disputed on behalf of the appellant before the High Court that service record of the respondent was good. It was pointed out that by an order dated 4th August, 1993 he was punished by stopping his two increments and a recovery of Rs.14,960.50 was ordered. He was again punished by an order dated 26th October, 1995 and Rs.7,197/- were ordered to be recovered.

The High Court after perusing the Confidential Reports for the years 1983-84 and onwards found that they did not justify respondent's compulsory retirement just 9 months before the date of superannuation. The High Court was of the view that the two punishments, imposed on him, were not for serious acts of misconduct. It took note of the fact that no act of misconduct was alleged against him after he was granted extension at the age of 55 years. It, therefore,

allowed the petition, set aside the impugned order of retirement and held that he was entitled to continue in service with all benefits till the actual date of superannuation.

The contention of Mr. Malhotra, learned counsel for the appellant, is that the High Court failed to appreciate that the order, compulsorily retiring the respondent, was passed by the appellant on the basis of his service record. He also submitted that the appellant did not retire him earlier when his case was taken up for consideration on attaining the age of 50 and 55 years because of pendency of his representation and a departmental inquiry. Soon after the inquiry was over the impugned order was passed. The learned counsel for the respondent, on the other hand, raised the same contentions which were raised before the High Court.

The record of the case discloses that in the Confidential Report for the year 1985-86 an adverse remark was made that his integrity was doubtful. At the time when he attained the age of 50 years, his case was taken up for consideration for his retention or retirement but it was not thought proper to retire him then as his representation against the adverse remark was still not decided. His case was again taken up for consideration when he attained the age of 55 years. At that time also the appellant did not think it fit to

We, therefore, allow this appeal, set aside the judgment and order passed by the High Court and dismiss the writ petition filed by the respondent. However, in the facts and circumstances of the case there shall be no order as to costs.