

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.21 OF 2018
(Arising out of SLP(C) No.15506 of 2013)

UNION OF INDIA

APPELLANT(s)

VERSUS

SHAILENDRA KUMAR SINGH

RESPONDENT(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

The challenge in this appeal is to the judgment and order dated 14.12.2012 passed by the Division Bench of the Gauhati High Court in W.P.(C) No.5866 of 2012.

The respondent was compulsorily retired on 31.01.2009 under the provisions of Rule 56(j) of the Fundamental Rules. The order of compulsory retirement mentioned that the respondent had completed 55 years, 06 months and 24 days of age as on 31.01.2009 and he was found unfit for further retention in service.

According to learned counsel for the respondent, the order of compulsory retirement amounts to casting a stigma on the respondent. It is with this grievance that the respondent approached the Central Administrative Tribunal which allowed the Original Application filed by the respondent.

Feeling aggrieved, the Union of India filed a writ petition before the Gauhati High Court which was dismissed.

We are told that subsequent to the order passed by the High Court the respondent has been reinstated and has now superannuated.

The only question before us is whether the expression that the appellant found the respondent unfit for retention in service casts a stigma on him and, therefore, would result in the order of compulsory retirement liable to be set aside.

Our attention has been drawn by learned Additional Solicitor General to Punjab State Power Corporation Limited and Others Vs. Hari Kishan Verma [(2015) 13 SCC 156]. In that case, the respondent was compulsorily retired by the Punjab State Electricity Board and the order of compulsory retirement stated that the ACR as well as the disciplinary cases against the respondent clearly show that he has a poor record as well as poor performances and inefficient and not fit for retention in the service of Punjab State Electricity Board.

While allowing the appeal of the Punjab State Electricity Board which had been filed against an order setting aside the compulsory retirement of the respondent therein, it was noted by this Court that the use of words like "inefficiency" and "not fit" cannot be put on a pedestal to confer on them such status so that they

convey the meaning of "stigmatic". Further, it cannot be remotely said to be stigmatic.

Following the decision in the Punjab State Power Corporation Limited (supra), merely stating that the respondent was unfit for further retention in service at the age of 55 years, when a review of the performance of an officer is undertaken, would not caste any stigma on the respondent.

Under the circumstances, we set aside the impugned judgment and order passed by the High Court and allow the appeal.

However, we make it clear that for the period the respondent has worked with the appellant, there will be no recovery of salary.

Needless to say, the respondent will be entitled to the benefits available to him under the law.

.....J.
(MADAN B. LOKUR)

.....J.
(DEEPAK GUPTA)

NEW DELHI
JANUARY 05, 2018

ITEM NO.3

COURT NO.4

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).15506/2013

(Arising out of impugned final judgment and order dated 14-12-2012
in WPC No. 5866/2012 passed by the Gauhati High Court)

UNION OF INDIA

Petitioner(s)

VERSUS

SHAILENDRA KUMAR SINGH

Respondent(s)

Date : 05-01-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. P.S. Narasimha, ASG
 Mr. S.S. Shamsbery, Adv.
 Mr. Gunwant Dara, Adv.
 Mr. B.V. Balaram Das, adv.
 Mr. B. Krishna Prasad, AOR

For Respondent(s) Mr. Abhay Kumar, AOR
 Mr. Saurabh Mishra, Adv.
 Mr. Bilal Khan, Adv.
 Mr. Himanshu, Adv.
 Mr. Vineet Kumar Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER

(Signed order is placed on the file)