

Pavitra Kumar Hembrom Vs. Union of India and ors

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Court : Delhi

Decided On : Jul-11-2013

Judge : Valmiki J. Mehta

Appellant : Pavitra Kumar Hembrom

Respondent : Union of India and ors

Advocate for Def. : Mr. Sanjay Kumar, Mr. Rajewra Parshad

Advocate for Pet/Ap. : Mr. S.C. Soren

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) No.522/2013 11th July, 2013 % PAVITRA KUMAR HEMBROM Through: Petitioner Mr. S.C. Soren, Advocate. versus UNION OF INDIA AND ORS Through: Respondents Mr. Sanjay Kumar, Advocate with Mr. Rajewra Parshad, Advocate for respondent No.2. CORAM: HON'BLE MR. JUSTICE VALMIKI J.

MEHTA To be referred to the Reporter or not? VALMIKI J.

MEHTA, J (ORAL) 1. By this writ petition, petitioner impugns the order of the respondent No.3/Reserve Bank of India compulsorily retiring the petitioner in public interest. Respondent No.3 has exercised its powers under Regulation 26 of the Reserve Bank of India (Staff) Regulations, 1948. This Regulation is identical with Fundamental Rule 56(j) of FRSR as applicable to Central Government

servants.

2. The law with respect to interference by the Court in orders of compulsory retirement in public interest is now well settled. No doubt, judicial review is permissible, however orders of compulsory retirement are only interfered with when there is found malafides or wholly unjustified basis to cause compulsory retirement of the officer in public interest. It is settled law that the compulsory retirement in public interest is neither a punishment nor is it stigmatic nor does it result in loss of retirement benefits.

3. This case was listed on 29.1.2013 when at the request of the petitioner this case was adjourned for today. Petitioner has filed additional documents. Petitioner was compulsorily retired in public interest w.e.f 14.3.2008. Petitioner has filed the Annual Appraisal Reports for the years from 2002-03 to 2007-08 and which shows that in the four years from 2002-03 to 2005-06, petitioner received around 41/42 out of 100 marks. For the year 2006-07 i.e 1.7.2006 to 30.6.2007 petitioner only received 35 out of 100 marks. For the period from May to June 2007 i.e two months petitioner received only 29 marks.

4. In view of the aforesaid reports, it is quite clear that performance of the petitioner in six years before retirement was just above average and below average in the last two years. I therefore do not find any ground to hold that there existed malafides or lack of adequate basis to pass the order of compulsory retirement. Though, counsel for the petitioner sought to rely upon the order of the National Commission for Scheduled Castes and Scheduled Tribes, however, it is not the satisfaction of that body but the satisfaction of the employer which decides the compulsory retirement in public interest of an employee. No document is filed before me that there cannot be compulsory retirement in public interest unless there is counselling given to an officer and as has been so urged before me by the counsel for the petitioner.

5. In view of the above, I do not find any reason to interfere. The writ petition is accordingly dismissed, leaving the parties to bear their own costs. VALMIKI J.

MEHTA, J JULY 11 2013 Ne

