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SHRI CHAMBA SINGH
v.
STATE OF PUNJAB AND ORS.

APRIL 9, 1997

B

[SUJATA V. MANOHAR AND V.N. KHARE, JJ.]

C

Punjab Police Rules, 1934/Punjab Civil Services (Premature Retirement) Rules, 1975—16.1(1), 16(5)/2(3), 3(i)(a)—Premature retirement—Service qualifying for pension—Forfeiture of three years' service for increment—Held : The employee's right to receive increments alone was affected—Hence no bearing on qualifying service for compulsory/premature retirement.

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Shri Bhagat Ram v. Inspector General of Police Himachal Pradesh & Ors., (1979) 3 SLR 256, overruled.

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1799-1800 of 1990.

From the Judgment and Order dated 31.3.89 of the Punjab & Haryana High Court in C.Misc.P. No. 4626 of 1989 in R.A. No. 42 of 1989.

A.P. Mohanty and Jitendra Singh for the Appellant.

R.S. Sodhi, Kuldeep Singh and Anil Kr. Sharma for the Respondents.

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The following Order of the Court was delivered :

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The appellant joined the Punjab Police Department as a Constable on March 30, 1961. In 1961 he was promoted as Head Constable. He was thereafter promoted as Assistant Sub-Inspector. He was served with an order dated September 2, 1987 of premature retirement from service in public interest. The order states that whereas the appellant has completed more than 25 years of service on 1.4.86 and whereas on consideration of his case, the concerned authority is of the opinion that it is in public interest to retire the appellant from service, therefore, in pursuance of Rule 3(i)(a) of the Punjab Civil Services (Premature Retirement) Rules, 1975 he is being retired on payment of three months' salary on 2.9.1987. It seems that

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during his service, the appellant had been subjected to the punishment of forfeiture of three years' service for increment. This forfeiture was later reduced to two years of service for the purpose of increment. The appellant contends that if the forfeited service of two years is excluded from his service, he cannot be said to have completed 25 years' qualifying service on 2.9.1987 and hence the order of compulsory retirement must be set aside.

Under the Punjab Civil Services (Premature Retirement) Rules, 1975, the expression "qualifying service" has been defined in Rule 2(3) of the said Rules to mean "Service qualifying for pension". We have therefore, to consider the effect of forfeiture of service for the purpose of increment under the Punjab Police Rules, 1934 and its impact on the relevant provisions of the Punjab Civil Services (Premature Retirement) Rule, 1975. The punishment which was imposed in this case on the appellant was under the Punjab Police Rules of 1934. Rule 16.1(1) of the Punjab Police Rules, 1934 states that no police officer shall be departmentally punished otherwise than as provided in these Rules. Rule 16.5 provides as follows :

"(1) The increment of a police officer on a time-scale may be withheld as a Punishment. The order must state definitely the period for which the increment is withheld, and whether the postponement shall have the effect of postponing future increments. The detailed orders regarding the grant and stoppage of increments are contained in rule 13.2.

(2) Approved service for increment may be forfeited, either temporarily or permanently, and such forfeiture may entail either the deferment of an increment or increments or a reduction in pay. The order must state whether the forfeiture of approved service is to be permanent; or, if not, the period for which it has been forfeited.

(3) Reinstatement on the expiry of a period fixed under sub-rule (1) or (2) above, shall be conditional upon good conduct in the interval, but, if it is desired under this rule not to reinstate an officer, a separate order shall be recorded, after the officer con-

- A cerned has been given opportunity to show cause why his reinstatement should not be deferred, and the period for which such order shall have effect, shall be stated. Rules regarding the method of recording punishments under this rule in seniority rolls are contained in Chapter X."
- B The effect, therefore, of the punishment of forfeiture of two years for the purpose of increments is that there is deferment of increment or increments over the forfeited period or there is reduction in pay. It does not have any impact on the length of service qualifying for pension which is the qualifying service to be taken into account for the purpose
- C of compulsory retirement. It is contended by the appellant that since Sub-Rule (3) of Rule 16.5 provides that on the expiry of the period fixed under Sub-Rule (1) or (2) of Rule 16.5, reinstatement is subject to good conduct and it is open to the department to pass a separate order not to reinstate an officer, there is a break in the service of the officer when
- D an order is passed under Sub-Rule (1) or (2). However, reinstatement in the context of Rule 16.5 can refer only to the resumption of service for the purpose of grant of increments. Forfeiture of service for the grant of increments does not result in termination of employment. Thus, Sub-Rule (1) provides for withholding of increments of a police officer
- E on a time-scale as a punishment. There is no reference in this sub-rule to forfeiture of service. Yet Sub-Rule (3) applies to an order under Sub-Rule (i) as much as to an order under Sub-Rule (2). Under Sub-Rule (2) the forfeiture is expressly of approved service for the purpose of increments. Such forfeiture may be temporary or permanent. This
- F Rule has no bearing on qualifying service for compulsory/premature retirement.

- The appellant continued in service throughout this period. His right to receive increments alone was affected. If the period of "forfeited" service under Rule 16.5(2) is to be deducted from qualifying service for compulsory retirement, it would have the paradoxical result of granting longer
- G service to such an employee for compulsory retirement. He would have to be allowed to work for additional years to make up the 'forfeited' years, before he can be compulsorily retired. This is not the intention of Rule 16.5. The appellant placed reliance upon a decision of the Himachal
- H Pradesh High Court in the case of *Shri Bhagat Ram v. Inspector General*

of Police, Himachal Pradesh & Ors., (1979) 3 SLR 256. The judgment has proceeded on the assumption that forfeiture of service for the purpose of increment is equivalent to a reduction in the period of qualifying service. For reasons which we have already set out, this is not a correct interpretation of the punishment of forfeiture of service for the purpose of increments.

The appeals are, therefore, dismissed. There will, however, be no order as to costs.

G.N.

Appeal dismissed.