

State of Punjab and Others

Vs

Bakhtawar Singh

Civil Appeal No. 1902 of 1980

(P. S. Pathak , O. Chinnappa Reddy JJ )

12.11.1980

JUDGMENT

R. S. PATHAK, J. –

1. This appeal by special leave is directed against an appellate judgment of the High Court of Punjab & Haryana affirming the quashing of a notice retiring the respondent prematurely from Government service.
2. The respondent was a Naib Tehsildar in the service of the State of Punjab. It was intended to institute criminal proceedings against him under Section 5(2) of the Prevention of Corruption Act but the State Government, being of opinion that sanction could not be granted to the proceedings, instead directed the Commissioner, Patiala Division, to institute proceedings for the respondent's premature retirement.
3. On May 16, 1968, the Commissioner made an order under Rule 25(2)(c)(i) of the Punjab Tehsildar Rule, 1932 prematurely retiring the respondent inasmuch as he had attained the age of 55 years. The respondent filed a writ petition against the order, and a learned single Judge quashed the order on the ground that the Commissioner had not applied his own judgment to the question whether the respondent should be prematurely retired, and had acted entirely at the behest of the State Government. A letters patent appeal by the appellants was dismissed by an Appellant Bench of the High Court.
4. In this appeal, learned counsel for the appellants has been unable to place before us the Punjab Tehsildar Rules, 1932 for the purpose of showing that the judgment under appeal is erroneous. In the circumstances, it is not possible for us to decide whether the High Court is wrong in the view it has taken. There are further circumstances that the respondent, had he continued in service until the age of superannuation, would have retired some years ago. We do not think, in the circumstances, that we should grant relief in this appeal.
5. Accordingly, then appeal is dismissed. As the respondent has not entered appearance, there is no order as to costs.

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