

R. P. Malhotra

Vs

Chief Commissioner of Income Tax, Patiala and Others

Civil Appeal No. 3645 of 1990

(B. C. Ray, A. M. Ahmadi JJ)

23.07.1990

ORDER

1. Special leave granted.

2. The subject matter of challenge in this special leave petition is the order of August 2, 1985 whereby the appellant was order to retire compulsorily under the provisions of Rule 56(i) of the Fundamental Rules as in the opinion of the Screening Committee the appellant has lost his effectiveness as well as utility to the department and in the public interest he is required to be prematurely retired.

3. Reliance has been placed by the learned ASG on the ASRs as well as on the report of the Screening Committee. We have gone through the ACRs for the period 1980-81 where it has been stated by the Reporting Officer in all the columns "good, nothing adverse to my knowledge." Then it has been recorded that he is a man of above average, he can improve his performance, his overall performance during the last year is categorised as "good" for the year 1981-82. The report is regarding general assessment "good" and a capable officer for the year 1981-82. It has been remarked by Mr. S. C. Prashar, Commissioner of Income Tax "an average officer" in the ACR for the period for 1982-83. Then for the period 1983-84 against all the columns the remark is "good". Regarding integrity it was remarked "nothing came to knowledge from which adverse inference can be drawn." The officer was holding Salary Circle prior to this assignment. He himself left column 12 blank "I appreciate that he is honest to admit that he has not done any outstanding work. Quality of assessment is average. Considering his experience and capability I recommend his posting for Salary Circle etc." The report for the period March 31, 1985 is as follows :

"The ITO has exceeded all his targets or met them. He has good investigating capabilities and did some good 133-A cases also during the year."

4. The Inspecting Assistant Commissioner also remarked as follows :

"He is intelligent systematic officer. He ran his station well and smoothly. He knows his job and works sincerely."

5. The Screening Committee considered the cases of several Income Tax Officers including the petitioner Mr. R. P. Malhotra and it has been observed that the rating for the year 1982-83 is "average". On the basis of his ACR the Screening Committee decided that this officer has lost effectiveness and has also lost utility to the government. The Committee, therefore, decided that he is not fit for any retention in the department and recommended his case under F. R. 56(j).

6. We have heard learned ASC and we have very carefully considered the ACRs as well as the order of the Screening Committee; we are not satisfied that the appellant has lost his utility in service and has become a deadwood and so in public interest he is required to be compulsorily retired before the age of superannuation which is on January 4, 1989.

7. In that view of the matter, we for the sake of fair play and justice set aside the order of compulsory retirement dated August 2, 1985 and direct the authorities concerned to take immediate steps for payment of the emoluments including salary and allowances as he is entitled to under the Rules for the period from the date of compulsory retirement i. e. August 2, 1985 till his attaining the age of superannuation on January 4, 1989. We accordingly allow the appeal. The authorities will reconsider his retiral benefits on the basis of this order and will pay him accordingly. There will be no order as to costs.

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