

## **H.C. Gargi vs State Of Haryana on 1 September, 1986**

**Equivalent citations: AIR1987SC65, (1987)ILLJ102SC, 1986(2)SCALE380, (1986)4SCC158, 1986(2)UJ558(SC), (1986) 1 ATC 356, AIR 1987 SUPREME COURT 65, 1987 LAB. I. C. 21, 1987 ALL CJ 271, 1986 UJ(SC) 2 558, 1987 BLT (REP) 40, (1986) JT 356 (SC), 1986 (4) SCC 158, (1986) 4 SUPREME 31, (1986) 2 CURLR 408, (1987) 1 LABLJ 102, 1986 SCC (L&S) 738, (1986) 2 LAB LN 762, (1986) 53 FACLR 584, (1986) 3 SERVLR 57, (1986) 2 CURCC 1063**

**Bench: A.P. Sen, B.C. Ray**

### **ORDER**

1. Special leave granted. Arguments heard.

2. In this case, the appellant who was an Assistant Excise & Taxation Officer, Haryana, after 35 years of service has been compulsorily retired in public interest by the State Government of Haryana by impugned order dated February 1, 1985 purporting to act under Rule 3.25(d) of the Punjab Civil Service Rules, Vol. 1, Part I. From the record of service it appears that based upon the report of the Review Committee in 1979, the appellant was retained in service after he attained the age of 50 years and thereafter on the report of the second Review Committee in 1983, he was continued in service on his attainment of the age of 55 years, on the basis of his record of service which was uniformly good right from year the 1964-65 to the year 1981-82. When he was just on the verge of retirement, the State Government directed his compulsory retirement under Rule 3.25(d) of the rules on the basis of two adverse entries made by the then Excise & Taxation Commissioner. Although the appellant pleaded that he earned a good report from the Deputy Excise & Taxation Commissioner who had opportunity to watch his performance during the years in question, the State Government in the return filed before the High Court contested the writ petition on the ground that the appellant was retired under Rule 3.25(d) of the rules as the adverse entries made by the Commissioner showed that he was of doubtful integrity. This however is not borne out by the two adverse entries made by the Commissioner showing that his performance in the year 1982-83 was 'average' and that in the year 1983-84 'below average' which did not pertain to his integrity. The appellant alleged that he had incurred the displeasure of the Commissioner for certain reasons. While his representation against the adverse entries made by the Commissioner was pending consideration, the Government passed the impugned order of compulsory retirement and thereafter rejected the representation. The power of compulsory retirement under Rule 3.25(d) of the rules can be exercised subject to the condition mentioned in the rule, one of which is that the concerned authority must be of the opinion that it is in public interest to do so. The test in such cases in public interest as laid down by this Court in *Union of India v Col. J.N. Sinha and Anr.* (1971) 1 SCR 79. It does not appear that there was any material on the basis of which the State Government could have formed an opinion that it was in public interest to compulsorily retire the appellant at the age of 57 years. There was really no justification for his compulsory retirement in public interest. The impugned order of compulsory retirement of the appellant order Rule 3.25(d) of the rules must therefore be struck down as being

arbitrary.

3. Accordingly, the appeal succeeds and is allowed with costs. The impugned order passed by the State Government dated February 1, 1985 for compulsory retirement of the appellant under Rule 3.25(d) of the Punjab Civil Services rules is quashed and he shall be treated as having retired from service on attaining his normal age of superannuation on April 30, 1986, and shall be entitled to his pensionary benefits upon that basis. Costs quantified at Rs. 1000/-.