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# Santosh Verma Vs Sainik Parivar Bhavans and Another

## CWP No. 11408 of 2011

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Aug. 16, 2013

**Hon'ble Judges:** M.M.S. Bedi, J

**Bench:** Single Bench

**Advocate:** R.K. Hooda, for the Appellant; S.K. Hooda, for the Respondent

## Judgement

M.M.S. Bedi, J.
The petitioner through the instant petition seeks issuance of a writ, in the nature of mandamus, directing the respondents

to take the petitioner in service back up-to the age of superannuation i.e. 58 years after quashing the compulsory retirement order dated

30.05.2011 (Annexure P-6) by virtue of which the petitioner has not been permitted to continue with the organization after the age of 56 years.

The main grievance of the petitioner is that she has been retired in contravention to the provisions of Rule 13 of Sainik Parivar Bhavan Haryana

Service (Common Cadre) Rules, 1999. Rule 13 of Sainik Parivar Bhavan Haryana Service (Common Cadre) Rules, 1999 is as under:--

13. Retirement:--All (Officers & Class-III) employees of Sainik Parivar Bhavans, Haryana will retire on attaining the age of 58 years. No

pensionary benefits are applicable to the members of service. While granting extension from 55 to 58 years, the extension of service will be given

on yearly basis. Once an employee is given extension from the age of 55 to 56 years, further yearly extension will be granted depending on the

Annual Confidential Report (ACR) of that particular year. The ACR should be Good and above and there should not be any adverse remarks for

granting further one years extension. In case the said ACR of an employee is Good and above without any adverse remarks and he/she is eligible

for grant of extension, the same will be approved by the Member Secretary. However, in case the employee does not meet the above criteria, the

case will be put up to the Management Committee for decision. No employee shall be retained in service after the age of retirement i.e. 58 years,

except in exceptional circumstances with the sanction of Member Secretary to be ratified by the Management Committee (however, for Class-IV

employees the retirement rule except pensionary benefits will be applicable as per Haryana Government Rules).

2. On the basis of above said Rule, learned counsel for the petitioner has submitted that once an employee is given extension from the age of 55 to

56 years, further extension has to be granted to the employee dependable upon Annual Confidential Report (ACR) of that particular year. The

counsel has laid emphasis on order dated 11.5.2010 (Annexure P-4) by virtue of which, the petitioner had been given extension after attaining the

age of 55 years, till attaining the age of 56 years i.e. up-to 31.05.2011.

3. The petition has been contested by respondent No. 2 on the ground that writ is not maintainable against Sainik Parivar Bhavans, Haryana as it is

an independent body registered under the Societies Act which is meant exclusively for the welfare of War Widows, Widows of Ex-servicemen and

Armed Personnel of Haryana.

4. Reliance has been placed on the judgment of Supreme Court in Civil Appeal No. 5607 of 2008 arising out of SLP (c) No. 7127 of 2006

Haryana Rajya Sainik Board and Security Relief Fund & Member Management Committee Vs. Mohan Lal.

5. Perusal of the order dated 30.05.2011 (Annexure P-6) reflects that the work and conduct of the petitioner while working as Hostel Warden

was not found satisfactory which has been made the basis for passing an order of compulsory retirement on attaining the age of 56 years. Specific

reasons mentioned in Annexure P-6 indicate that the petitioner has been denied further extension on the basis of her work and performance which

is permissible under Rule 13.

6. Besides this, it is not out of place to observe here that the order of compulsory retirement is not stigmatic order as per the law laid down in

Baikuntha Nath Das and another Vs. Chief District Medical Officer, Baripada and another, wherein the Apex Court observed as under:--

An order of compulsory retirement is not a punishment. It implies no stigma nor any suggestion of misbehaviour. Principles of natural justice have

no place in the context of an order of compulsory retirement. Since the nature of the function is not quasi-judicial in nature and because the action

has to be taken on the subjective satisfaction of the government, there is no room for importing the audi alteram partem rule of the natural justice in

such a case.

7. Learned counsel for the petitioner has placed reliance on judgment of this Court in CWP No. 14237 of 1994 titled as Mohinder Singh Vs. State

of Haryana and others wherein the petitioner in the said case who was Field Kanoongo having throughout a good record was compulsory retired.

The Court has set aside the order of pre-mature retirement holding the same to be arbitrary. The facts of said case are justifiable from the

circumstances of this case where work of the petitioner had been found to be not satisfactory and it was specifically observed that her services are

not required by the Sainik Parivar Bhavan, Haryana, a registered welfare society. It is not out of place to observe here that counsel for the

respondent brought to the notice of this Court that there being no student in the Hostel, the post of Hostel Warden was even otherwise not

required.

8. Reliance has also been placed on item Annexure R-3 pertaining to the exploitation of the girls in Sainik Parivar Bhavan.

9. Taking into consideration the facts and circumstances of this case, I do not find any ground to interfere in the order dated 30.05.2011

(Annexure P-6). Dismissed.