

(2010) 08 P&H CK 0380

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Dr. K.L. Sethi

APPELLANT

Vs

Government of Punjab and
Another

RESPONDENT

Date of Decision: Aug. 25, 2010

Acts Referred:

- Punjab Civil Services (Premature Retirement) Rules, 1975 - Rule 3(3), 6(16)

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Judgement

Kanwaljit Singh Ahluwalia, J.

In the present writ petition, petitioner has prayed that a direction be issued to the respondents to release all retiral benefits i.e. Pension, gratuity, G.P.F., leave en-cashment, group insurance etc. as the petitioner sought voluntary retirement w.e.f. 17.5.2000....

2. Before facts pleaded in the writ petition are noticed, it will be necessary to formulate the following question for consideration of the Court:

Whether the petitioner had retired from government service or not?

3. Briefly stated, the petitioner joined the Punjab Civil Medical Service, Class-II, as Medical Officer on 13.4.1983. Case of the petitioner is that on 17.5.2000 he had rendered more than 17 years of service and due to domestic reasons, he issued a notice, Annexure P1, in which he stated that he intended to seek pre-mature retirement under Punjab Civil Services (Premature Retirement) Rules, 1975 (hereinafter to be referred as, "the Rules"). To comply with the Rules, it was stated that after completion of 90 days period as prescribed under Sub-rule 3.3 of the Rules, he be relieved from duties. It was prayed in the notice that all retiral benefits be released to him.

4. Counsel for the petitioner contended that after the expiry of notice period of 90 days, he automatically stood relieved and, therefore, he stood retired from the respondent-Department.

5. Rule 3(3)(c) of the Rules is reproduced hereunder:

3(3)(c) Where the appropriate authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

6. According to Rule 3(3)(c) of the Rules, where the competent authority does not refuse to grant the permission for retirement before the expiry of period specified in the said notice, the retirement will become effective on the expiry of said period of notice. For seeking voluntary retirement, the Government had specified two necessary conditions; (a) that the employee seeking retirement should have attained the age of 50 years; and (b) he should have completed 20 years of service. As stated earlier, the petitioner had not completed 20 years of service. Thus, the notice issued by the petitioner was ignored. The Government had not retired the petitioner. As per stand of the respondent-Department, since the petitioner had not completed 20 years of service, he continued to be the employee and the period after the expiry of period of 90 days, when the petitioner assumed himself to be relieved from duties, is to be treated as absence from duty.

7. This Court is of the view that the respondent-Department has taken a very harsh view in the facts and circumstances of the case. The Government had been encouraging the employees to take retirement and seek self employment so that State is able to fulfill the object of generating maximum employment. Notice sent by the petitioner was rejected by the Government vide Annexure R1, on 20.4.2000 on the ground that he has not completed the qualifying service. In these circumstances, this Court is of the view that the State Government may consider the prayer of the petitioner for grant of pro-rata pension under Rule 6.16 of the Punjab Civil Service Rules, Volume II sympathetically, as this Court cannot give a categorical finding that the petitioner stood retired as he had not completed 20 years of qualifying service on the expiry of period of notice. Counsel for the petitioner has relied upon *Ganga Bishan v. State of Haryana* 1994 (3) PLR 691, wherein considering the fact that the petitioner had completed 18 years, 5 months and 15 days of service instead of 20 years of service, it was held that Rule 6.16 can be invoked. Therefore, in view of the observations made, the authorities may also consider the the ratio of judgment relied upon by counsel for the petitioner, while sympathetically considering the case of the petitioner.

With the aforesaid observations, the present writ petition is disposed of.