

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1775 of 2013

Date of Decision.10.09.2015

Harbans Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

Present: Mr.Navjot Singh, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J.

1. The appeal is at the instance of the plaintiff whose suit was dismissed. The plaintiff was making a claim that the order of giving effect to premature voluntary retirement that was accepted by the authorities was erroneous. It was an admitted case that the plaintiff had applied for voluntary retirement and the rules provided three months notice to be given. The three months notice had also been given but the plaintiff wanted to contend that this notice was issued by coercion and compulsion. He gave a representation sometime in July 2004 that he was willing to join and that the letter of voluntary retirement was not to be given effect as brought about under vitiating circumstances. The authorities declined to accept such a plea and hence the present suit.

2. The main plank of the plaintiff's contention was that there had been no specific order of the authorities accepting the resignation. The plaintiff would refer to the Punjab Civil Service Rules in Appendix 21 Rule 3, the period of notice to be given shall be not less than three months.

There is a proviso appended that any government employee may after

giving at least three months previous notice in writing to the appropriate authority retire from service on the date on which he completes 25 years qualifying service or attain 50 years of age or at any date thereafter to be specified in the notice. The proviso is that no employee under suspension shall retire from service except with the previous approval of the appropriate authority. Rule 3 (3) (c) states where the appropriate authority does not refuse to grant permission for retirement after the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

3. I would find that there is no requirement for an employer to accept the plea for voluntary retirement. If the employee gives three months notice and the employer does not respond to it within a period of three months either declining to accept or before the employee himself withdraws the letter of voluntary retirement and before the employer accepts it, nothing else would require to be done. There was no scope for an employee to resile from such a voluntary retirement and contend that the voluntary retirement was done by practice of force. In this case an additional information was available that after the compulsory retirement, the petitioner had forwarded papers for securing pension and they were approved. The courts below considered that this conduct of the employee showed that the voluntary retirement was brought with no compulsion and declined to make intervention in favour of the employee.

4. I do not find any error in the approach made by the courts below for intervention in 2nd appeal. The 2nd appeal is dismissed.

(K. KANNAN)
JUDGE

September 10, 2015
Pankaj*