

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3697 of 1999 (O&M)

Date of Decision: 17.05.2016

Inderpartap Singh Bains

... Petitioner

Versus

The Punjab State Electricity Board
and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ajaivir Singh, Advocate,
for the petitioner.

Mr. P.S. Thiara, Advocate,
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. While seeking premature retirement by a request in writing dated August 23, 1996 the petitioner asked the appropriate authority to consider him a retired person from the date of reaching 55 years of age which was a month away i.e. September 25, 1996. His request was accepted but by virtue of rules three months' salary was deducted from his retiral benefits representing notice period.

2. The petitioner approached this Court for refund of the deducted money. The claim has been resisted citing amendment to Regulation-3 of the PSEB Services (Premature Retirement) Regulations, 1982 which substitute the earlier note with the following amended rule issued by

Regulation Circular No.13/86 dated February 28, 1986. Note-1 reads:-

“Note-1 :- An employee may make a request, in writing to the appropriate authority to accept notice of less than three months giving reasons therefor and such a request for the curtailment of the period of notice shall be considered on merit and if the appropriate authority is satisfied that such curtailment will not cause any administrative inconvenience it may relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before the expiry of the notice period of three months.”

3. The only argument raised by learned counsel for the petitioner against the deduction is that the regulation causes undue hardship and the condition deserves to have been relaxed with respect to the requirement of notice period of three months. However, a rule is a rule and if it is unambiguous then it is not possible for the Writ Court to take a subjective view of the rule which may violate its structure. As far as relaxation is concerned it is a matter of discretion and when discretion occupies the field a writ would normally not be issued to command the competent authority of the manner in which the discretion has to be exercised.

4. In view of the above, no ground is made out to interfere in writ jurisdiction against adjustment of salary for three months in lieu of notice.

5. The petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

17.05.2016
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