

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19884 of 2012 (O&M)
Date of Decision:- 11.08.2016.

Vijender Kumar

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present:- Mr. Wazir Singh, Advocate for the petitioner.

Mr. Pawan Kumar Longia, Senior Panel counsel for
Union of India-respondents.

P.B. BAJANTHRI, J. (Oral)

1.) In this petition, the petitioner has assailed the order dated 30.11.2009 (Annexure P-4) and order dated 16.8.2012 (Annexure P-7). The petitioner was appointed as a Water Carrier with the respondents-Central Reserve Police Force on 15.10.1993 (28.10.1993). On 21.11.2009, he had requested for his discharge from service by assigning the reasons that he has old aged parents who were suffering from various illness and he has to look after them. Thereafter, he has given undertaking which are at Annexure R-1 and R-2. On 28.11.2009, the Commandant – respondent No.4 accepted the application of the petitioner for discharging him from service under Rule 17 of CRPF Rules, 1995 vide Annexure P-4. On 4.1.2012, the petitioner sent a legal notice through his counsel. Notice was considered and replied by the

respondents stating that petitioner has been discharged from service on 30.11.2009 and he is not entitled for either reinstatement or entitled for pensionary benefits. Thus, the petitioner has challenged the order of acceptance of discharge dated 28.11.2009 (Annexure P-4) as well as rejection of legal notice dated 16.08.2012 (Annexure P-7).

2.) Learned counsel for the petitioner submitted that petitioner without knowing the consequence of seeking for discharge, petitioner has submitted application for his discharge from service. Due to domestic issues at home he had to submit application for discharge. Even the undertaking given by him is due to compelling reasons. Therefore, it was submitted that petitioner has rendered service from 1993 to 2009, he is entitled for reinstatement as he is medically fit or in the alternative, he is entitled for pensionary benefits.

3.) Per contra, learned counsel for the respondents submitted that the petitioner has submitted discharge application on his own. The same has been accepted as per the provision of CRPF Rules, 1995 which has been received through proper channel, therefore, there is no illegality in the order of discharge dated 28.11.2009. The petitioner should have thought twice before submitting application for discharge. Moreover, petitioner slept over the matter from 2009 to January, 2012. There is a delay in approaching this Court in respect of challenge to the order of discharge dated 28.11.2009. Notice for reinstatement and pension is not maintainable for the reasons that order of discharge was passed way back in the month of November, 2009. Hence, the petitioner has not made out a case so as to interfere with the impugned orders vide Annexure P-4 and P-7. It is true that the petitioner is a Class-IV employee – Water Carrier. He has worked from 1993 to 2009.

Due to domestic problems at home, he was compelled to submit discharge application and the same was accepted in November, 2009. Whereas the petitioner has presented the present petition in the year 2012. No explanation has been given for the delay in approaching this Court. Even if the petitioner's case is considered on the ground of sympathy that he was facing domestic problems and social justice is warranted, however, various provisions of law are hurdle for him to seek any relief for reinstatement or pension, since the petitioner has not completed minimum service of 20 years to seek retiral benefits. Thus, the petitioner has not made out a case so as to interfere with orders dated 30.11.2009 and 16.08.2012 (Annexures P-4 and P-7, respectively).

4.) Petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

August 11, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.