

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 25779 of 2015
Date of Decision: 16.12.2016

KALA RAM BHALLA

... Petitioner

V/s.

PUNJAB STATE POWER CORPORATION LTD. AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. R.S. Longia, Advocate,
for the petitioner.

Mr. R.L. Sharma, Advocate,
for the respondents.

KULDIP SINGH, J. (Oral)

The petitioner has preferred the present writ petition under Articles 226/227 of the Constitution of India for issuance of writ of certiorari and mandamus quashing the impugned orders dated 24.03.2008 (*Annexure P-18*) whereby the services of the petitioner were terminated with retrospective effect w.e.f. 04.08.2005 and order dated 19.11.2014 (*Annexure P-22*) vide which the appeal filed by the petitioner has been dismissed. The petitioner also sought a direction to respondents to release all retiral benefits and its arrears alongwith interest.

It comes out that since 02.11.1977, the petitioner has worked as Upper Division Clerk with Punjab State Electricity Board now succeeded by Punjab State Power Corporation Limited. His date of birth is 15.04.1945. He was to complete the age of 58 years in year 2003 and was to retire on 30.04.2003. However, it comes out that since the Service book of the petitioner

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was not available, the petitioner was not retired on the due date of retirement rather he was transferred to the Sub-Division Banga vide order dated 13.6.2003 (*Annexure P-7*), where he joined on 26.06.2003. Thereafter, vide order dated 08.07.2005 (*Annexure P-9*), he was put at the disposal of Superintending Engineer, Tarn Taran against a vacant post. Accordingly, the petitioner who has crossed the age of retirement proceeded on casual leave. However, he was allowed the casual leave only upto 3 days w.e.f. 01.08.2005 to 03.08.2005 and was supposed to join on 04.08.2005, but he could not join till 03.11.2005. However, he made a representation dated 28.11.2005 stating that due to adverse circumstances in the family, he could not join the service. Since, the petitioner has already crossed the age of retirement he was relieved on 01.12.2005. Thereafter, it comes out that on account of absence from duty with effect from 04.08.2005, he was charge sheeted and ultimately vide order dated 24.03.2008 (*Annexure P-18*) his services were terminated with effect from 04.08.2005 i.e. from the date he remain absent from duty. The statutory appeal against the said the order was dismissed (*Annexure P-22*).

I have heard learned counsel for both the parties and carefully gone through the file.

The respondents have not disputed the date of birth of the petitioner i.e. 15.04.1945. He was to retire on attaining the age of superannuation on 30.04.2003. Whatever may be the reason, it is the fault of the employer to allow the petitioner to continue in service after his due date of retirement against the rules. Once the services of the petitioner was continued beyond the date of superannuation, he cannot be charge-sheeted for absence from duty that too when he was relieved from Service on 04.08.2005 after

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having crossed the age of retirement. Needless to say that after the retirement, the services of the petitioner could not be terminated w.e.f. 04.08.2005 which is after the due date of his retirement i.e. 30.04.2003.

It being so, the impugned orders dated 24.03.2008 and 19.11.2014 (*Annexures P-18 and P-22 respectively*) are patently illegal and hereby set aside. Accordingly, the respondents are ordered to release all the retiral benefits to the petitioner, as if he superannuated on 30.04.2003 with interest at @ 9% per annum starting three months from the date of retirement.

The necessary payment be released to the petitioner within three months from the date of receipt of certified copy of this order.

In view of the above, the present petition stands allowed.

December 16, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

		✓	
Whether speaking / reasoned :	Yes	/	No
			✓
Whether Reportable :	Yes	/	No