

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

**CWP No.25280 of 2016 (O&M)
Date of decision : December 07, 2016**

Kamal Dev Kalia

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Shashi Kumar Rattan, Advocate for the petitioner.

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

KULDIP SINGH J. (ORAL)

Petitioner, namely Kamal Dev Kalia, retired as Senior Assistant from the respondent-Department. He was physically disabled. The petitioner retired from service on 31.05.2013, on attaining the age of 58 years. The petitioner earlier approached this Court by way of filing of CWP No.24930 of 2015, claiming that being the handicapped person, he is entitled to the benefits of the Disability (Equal Opportunities Protection of Rights and Full Participation) Act, 1955, under which he is entitled to extension of two years. The said writ petition was disposed of with direction to decide the representation of the petitioner, in the light of judgments of this Court passed in CWP No.3974 of 2012, titled as “*Harbhajan Singh vs State of Punjab and others*”, decided on 18.09.2015 and in CWP No.7233 of 2010, titled as “*Bhupinder Singh vs State of Punjab and others*”, decided on 25.05.2011. Accordingly, now the impugned order dated 23.05.2016 (Annexure P-12) has been passed, vide which it has been ordered that the petitioner is deemed to have been retired on attaining the

age of 60 years for the purpose of grant of increments, pay fixation and retiral benefits except the payment of arrears of pay. However, the retiral benefits of the petitioner shall also be got revised from the competent authority.

The petitioner is aggrieved of the later part of the order, vide which the payment of arrears of the pay have been declined to him.

Learned counsel for the petitioner states that in ***Bhupinder Singh's and Harbhajan Singh's cases (supra)***, the arrears were granted.

However, the perusal of the judgment of ***Harbhajan Singh's case (supra)***, shows that when he was denied the extension, the said petition was filed in the same year, in which the petitioner retired. In the judgment of ***Bhupinder Singh's case (supr)***, the petition was filed before his retirement. Therefore, the arrears were allowed.

In the present case, the petitioner retired from service on 31.05.2013. Though, he had issued legal notice but he waited till the year 2015 to move this Court when he already crossed the age of 60 years.

In these circumstances, the petitioner had not worked for the extended two years and filed the petition when he had completed the age of 60 years. The arrears of pay was rightly declined by the authority.

As such, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

December 07, 2016

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Whether speaking / reasoned Yes

Whether Reportable: No