

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2289-1999 (O&M)

Date of decision: 20.03.2017

B.L.Singla

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.R.L.Sharma, Advocate for the petitioner
Mr.R.S.Pathania, DAG Punjab

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Petitioner on being selected by the Punjab Public Service Commission was appointed as Assistant Director Fisheries (Research) and joined as such on 4.4.1964. According to him, as per advertisement, at that time, the qualifications for the said post was M.Sc. Zoology from a recognized University, adequate knowledge of Hindi and Punjabi and two years experience of Research in fresh water fisheries. Petitioner retired from service on 31.3.1993 as Director and Warden Officer, Punjab, which is a Class-I post. At the time of retirement, the petitioner had completed service of 28 years 9 months 12 days. Petitioner claimed that he is entitled for benefit of 3 years 9 months and 12 days service in view of Rule 4.2 (A)(1) of Punjab Civil Service Volume II, 1976.

The State in the reply has taken the stand that in fact the petitioner had joined on 4.1.1964. At that time he was governed by Punjab Veterinary Service Rules, 1933. It was further stated that benefit has been

denied on the ground that Rule 4.2(1)(b) of Punjab Civil Service Rules Volume II does not find mention that this post carries benefit of said Rule.

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

The petitioner has not stated in the petition itself that at the time of his appointment, the Punjab Veterinary Service Rules 1933 carried a specific condition that the post to which he was appointed carries the benefit of Rule 4.2(A)(1). Rule 4.2(A)(1), as mentioned in Punjab Civil Services Rules Volume II, added by way of amendment dated 25.8.1976, is reproduced as under:-

4.2. (1) A Government employee appointed to a service or post after the twenty sixth day of October, 1960, shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension), the actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded twenty-five years, or a period of five years, whichever is less, if the service or post to which the Government employee is appointed is one –

(a) for which post-graduate research or specialist qualification, or experience in scientific, technological or professional fields, is essential; and

(b) to which candidates of more than twenty-five years of age are normally recruited:

Provided that this concession shall not be admissible to a Government employee unless his actual qualifying service at the time he quits Government service is not less than ten years:

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which carries the benefit of this rule.

The dispute in the present case is regarding second proviso which laid down that for the application of the said Rule, it must be provided in the recruitment rules that the service of the post contains specific provision that the service of the post is one which carries the benefit of this rule. The petitioner does not claim that Punjab Veterinary Rules, 1933, as applicable at that time, carried such condition nor it is claimed that the amended Punjab Veterinary Class Rules, which came into operation during his service, contained such specific condition or Punjab Fisheries Services Class II 1988, rules contained such condition. As per Rule 15 of Punjab State Fisheries (Class II) Service Rules, 1980, regarding leave, pension and other matters, if there is no provision in the said rules, the rules and regulations as may have been or may hereafter be adopted or made by the competent authority shall be applicable. It is not shown that even as per subsequent Rules, adopted by the competent authority, a specific provision was made that the said service carries such benefit.

It being so, the petitioner is not entitled to benefit of Rule 4.2(A) (1) of the Punjab Civil Service Rules Volume II. Accordingly, the present petition is dismissed.

20.03.2017

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No