

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

CWP No.1582 of 2015

Date of Decision:09.10.2017

Phool Chand

... Petitioner

Vs.

Central Warehousing Corporation and others

... Respondents

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

Present : Mr. A.K. Vermani, Advocate for the petitioner.

Mr. Arun Kumar Batra, Advocate for the respondents.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has prayed for the following relief:

“b) issuance of a writ in the nature of certiorari to quash the relieving order dated 26.02.2014, Annexure P/2, whereby the petitioner has been given voluntarily retirement, as also, speaking order dated 03.12.2014, Annexure P/10 passed by Regional Manager, respondent No.4, passed in compliance of the directions of this Hon'ble Court, whereby respondent No.4 has denied the petitioner from being reinstated back into service.

c) For issuance of a writ in the nature of MANDAMUS directing the respondents to re-instate the petitioner into service forthwith and he may be allowed to continue till her retirement, with all the consequential benefits.”

Petitioner is stated to have been appointed as C.D.R-I (Security Guard) in the respondent-Organization. While he was working as such, on 28.11.2013, respondents introduced Special Voluntary Retirement Scheme 2013 on 30.8.2013 while fixing operation of the scheme for a period of three months from 30.8.2013 to 29.11.2013. Petitioner submitted

application for voluntarily retirement on 28.11.2013. The same was forwarded by the Manager, Warehousing Corporation. Petitioner's application for voluntarily retirement was accepted on 29.11.2013. Thereafter, petitioner realizes that his application for voluntarily retirement has been obtained under duress by the office of the Central Warehousing Corporation, Amritsar. Thus, he moved an application to revoke the application for voluntarily retirement on 2.12.2013. The respondents have not accepted the petitioner's grievance. Thereafter, petitioner has been paid monetary benefits in the month of April 2014. Hence, the present petition.

Learned counsel for the petitioner submitted that petitioner is a illiterate/Class-IV employee and application form for voluntarily retirement is in English language. Therefore, obtaining application for voluntarily retirement is not at the petitioner's desire or willingness. It is further submitted that for acceptance of voluntarily retirement, period is three months as is evident from the Voluntarily Retirement Scheme. Whereas in the present case, in a jet speed, respondents have forwarded the petitioner's application for voluntarily retirement and the same was accepted on very next day i.e. on 29.11.2013. Since application and acceptance of application for voluntarily retirement is due to coercion, therefore, petitioner had submitted application immediately after acceptance was came to her knowledge on 2.12.2013. Merely acceptance of monetary benefits in the month of April 2014 does not prohibit in challenging the action of the respondents in accepting the application of the petitioner for voluntarily retirement for the reasons that he has to lead his livelihood. If the petitioner happened to be in service in the normal course, he would have retired only in the year 2019.

Per contra, learned counsel for the respondents submitted that petitioner had submitted application for voluntarily retirement on 28.11.2013 and the same was forwarded by his office at Amritsar to the office of Regional Manager, Chandigarh on 29.11.2013. His Voluntarily retirement application was accepted. Once the voluntarily retirement application is accepted, question of revoking the same do not arise. Petitioner is aware of the Voluntarily Retirement Scheme 2013 that it would be in force for a period of three months. Petitioner submitted his application on the last date fixed, therefore, his application was accepted on 29.11.2013 from 27.2.2014 while reliving him from service after completion of records. That apart, petitioner has accepted monetary benefits arising out of voluntarily retirement. Therefore, petitioner has not made out a case so as to interfere with the impugned orders.

Heard learned counsel for the parties.

It is undisputed fact that petitioner is a illiterate and class-IV employee. Whereas Special Voluntarily Retirement Scheme 2013 dated 30.8.2013 is in English language. Even the application form is in English language. Before acceptance of the petitioner's application for voluntarily retirement, the competent authority should have ascertained whether petitioner is giving application for voluntarily retirement on her own and so also posed question whether is there any coercion in submission of application as she was illiterate. That apart scheme itself provides for acceptance of Voluntarily Retirement Scheme within a period of three months from the date of receipt of the said application. Whereas perusal of the date of application and its acceptance, it is evident that on the very next date of the date of making application, acceptance of voluntarily retirement

was ordered. These events shows that there is some coercion in submission of application and its acceptance. Therefore, impugned orders are hereby set aside. Respondents are hereby directed to reinstate the petitioner. Petitioner is entitled to 50% of back wages with continuity of service.

Accordingly, writ petition stands allowed.

At this stage, learned counsel for the respondents submitted that petitioner has accepted monetary benefits pursuant to the acceptance of voluntarily retirement on 29.11.2013. In that event, respondents are hereby directed to calculate 50% back wages and adjust the said amount in respect of voluntary retirement benefits. Petitioner be made known what is the difference amount to be remitted back and he will remit the balance amount within six months from the date of such determination and communication.

09.10.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**