IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.17012 of 2017(O&M)
Date of Decision: 02.08.2017

Dharampal --Petitioner

Versus

State of Punjab and others --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Ms. Satpreet Grewal Kapila, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA.J

As per pleadings on record, petitioner is serving on the post of Lineman under the Punjab State Power Corporation Ltd.

The instant petition has been filed praying for the issuance of a Writ of Mandamus for directing the respondent authorities/Corporation to accept the request of the petitioner seeking premature retirement under the relevant Punjab Civil Services Rules with all consequential benefits. Further prayer is for release of salary for the last 16 months to the petitioner.

The prayer raised by the petitioner would require examination against the backdrop of the relevant rules on the subject i.e. the Punjab Civil Services (Premature Retirement) Rules, 1975.

Rule 3 of the 1975 Rules is in the following terms:-

*"3. **Premature Retirement**:*

1(a) The appropriate authority shall, if it is of the opinion that it is in public interest to do so, have the absolute right, by giving an employee prior notice in writing, to retire that employee on the date on which he completes twenty five years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice.

(b) The period of such notice shall not be less than three

months:

Provided that where at least three months' notice is not given or notice for a period less than three months is given, the employee shall be entitled to claim a sum equivalent to the amount of his pay and allowances, at the same rates at which he was drawing them immediately before the date of retirement, for a period of three months or, as the case may be, for the period by which such notice falls short of three months.

(2) Any Government employee may, after giving at least three months' previous notice in writing to the appropriate authority retire from service on the date on which he completes twenty-five years of qualifying service or attains fifty rears of age or on any date thereafter to be specified in the notice:

Provided that no employee under suspension shall retire from service except with the specific approval of the appropriate authority.

(3) (a) At any time after an employee has completed twenty years of qualifying service, he may, by giving notice of not less than three months in writing to the appropriate authority, retire from service.

(b) The notice of voluntary retirement given under this sub-rule shall require acceptance by the appropriate authority.

(c) Where the appropriate authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(4) The employee, who has elected to retire under sub-rule (2) or sub-rule (3) and has given the necessary notice to that effect to the appropriate authority, shall be precluded from withdrawing his notice except with the specific approval of the appropriate authority.

Provided that the request for withdrawal shall be made before the intended date of his retirement .

Note 1:- An employee may make a request, in writing, to *the appropriate authority to accept notice of less than three months giving reasons therefore and such a request for the curtailment of the period of notice shall be considered on merit and if the appropriate authority is satisfied that such curtailment will not cause any administrative inconvenience it may relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before the expiry of the notice period of three months."*

Note 2:- *If an employee retires under sub-rule (2) or (3) above while he is on leave not due, without returning to duty, the retirement shall take effect from the date of commencement of the leave not due and the leave salary paid in respect of such leave shall be recovered as provided in rule 8.119 (d) of the Punjab Civil Services Rules, Volume I, Part I.*

Note 3:- *In computing the notice period of three months referred to in rule 3, the date of service of the notice and the date of its expiry shall be excluded."*

Perusal of the statutory provision reproduced hereunder makes it clear that any govt. employee may after giving three months previous notice in writing to the appropriate authority retire from service w.e.f. the date on which he completes 25 years of qualifying service or attains 50 years of age or on any date thereafter to be specified in the notice.

Proviso to the rule states that no employee under suspension shall retire from service except with the approval of the appropriate authority.

Placed on record at Annexure P-8 is a reply dated 15.2.2017 by the Corporation towards response to a legal notice dated 2.1.2017 that had been got served on behalf of the petitioner. Perusal of the same would reveal that the present petitioner has absented from duty w.e.f. 1.3.2016. In the reply at Annexure P-8, it has also been recited that a charge sheet dated 28.11.2016 already stands issued to the petitioner on the specific article of charge of continuous absence from duty.

Contents of the reply dated 15.2.2017 (Annexure P-8) are not disputed by counsel.

Inspite of being repeatedly called upon to apprise the Court as to whether the petitioner has already been placed under suspension, the response has been evasive.

Under such circumstances, the prayer raised in the present petition cannot be adjudicated upon.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

02.08.2017
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No