

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

**CWP No. 2896 of 2016
Date of Decision: 24.04.2017**

Navdeep Kaur

...Petitioner

Versus

State of Punjab & Another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Harinder Sharma, Advocate
for the petitioner.

Mr. L. S. Virk, Additional Advocate General, Punjab.

JAISHREE THAKUR, J. (Oral)

1. The petitioner herein seeks for issuance of a writ of Certiorari for quashing of order dated 03.07.2015 (Annexure P-4) passed by respondent No. 2 whereby her case of re-induction into service, by permitting her to withdraw her application dated 28.11.2013 seeking voluntary retirement, has been rejected without taking into consideration Circular/instructions dated 11.06.1998 (Annexure P-5) which permits a female employee, who had resigned from the post on account of her marriage or family problems, to rejoin service within the period of ten years.
2. In brief, the facts are that the petitioner, who was appointed as Physical Training Instructor on *ad hoc* basis in 1995, was regularized w.e.f. 1991 and, thereafter, on attaining additional qualification, she was promoted as Punjabi Mistress in the year 2004. She submitted an application dated 28.11.2013 (Annexure P-1) seeking voluntary retirement in terms of Rule 3(2) of the Punjab Civil Services (Premature Retirement) Rules, 1975 after having attained the age of 50 years and having completed 25 years of

service. This application was accepted by order dated 26.02.2014 and all necessary retiral benefits were released to her. After a gap of 14 months, the petitioner submitted an application seeking to rejoin service by relying upon Circular dated 11.06.1998 which permitted that those female employees, who have resigned from the post on account of their marriage or family problems, shall be entitled to rejoin service within the period of ten years provided that any vacant post is available. The period of remaining out of service shall be treated as extraordinary leave in terms of the Rule 8.121 of the Punjab Civil Services Rules, Volume-I, Part-I and such person was to be placed in the bottom of the seniority list. Since the petitioner was not taken back in service, the instant writ petition has been filed.

3. Learned counsel appearing on behalf of the petitioner contends that Circular dated 11.06.1998 is applicable to the case of the petitioner who had resigned on account of her domestic issue and, therefore, she is entitled to be taken back in service.

4. Per contra, learned counsel appearing on behalf of the respondents-State submits that the claim of the petitioner was rightly rejected as she had applied for voluntary retirement by giving notice dated 28.11.2013 which came to be accepted by the Department w.e.f. 28.02.2014 and, thereafter, she had received all her retiral benefits as well as has been receiving pension. Once having left her job of her own free will, she cannot be taken back in service.

5. I have heard learned counsel for the parties and have perused the record of the case.

6. There is no dispute about the fact that the petitioner sought voluntary retirement in terms of the Rule 3(2) of the Punjab Civil Services

(Premature Retirement) Rules, 1975 by giving three months' notice to the Department. The said request seeking voluntary retirement was filed through proper channel by stating that she had attained the age of 50 years and had completed 25 years of service. Rule 3(2) and (4) of the said rules are reproduced herein below:

3(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 years 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 .

7. Reliance that has been placed upon Circular dated 11.06.1998

is ill founded. A reading of the said circular would show that those female employees who have resigned from the post on account of 'their marriage' or 'family problems' shall be entitled to rejoin service within the period of ten years provided that any vacant post is lying vacant. There was a condition that was imposed in the said circular that this period of ten years shall limit to child bearing age (maximum two children). A reading of the said circular in its entirety (though not happily worded) would reflect that 'those female employees, who had resigned from the post on account of their marriage or family problems, shall be entitled to rejoin service within the period of ten years' would actually be applicable to those female employees who resigned from their post after getting married and in order to have children and bring them up. This condition would clearly debar the petitioner herein from seeking reemployment as she had attained the age of 50 years as on the date she submitted her application seeking voluntary retirement.

8. Moreover, this circular would not be applicable to the petitioner since it pertains to persons who had resigned from service and on the contrary, the petitioner had sought voluntary retirement. Rule 7.5(4) of the Punjab Civil Services Rules, Volume-I, Part-I pertains to when the appointing authority may permit a person to withdraw his resignation when the resignation is tendered by the government employee under some compelling reasons. The relevant portion is reproduced herein below:

7.5(1).....

4. (i) that the resignation was tendered by the Government employee for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the

circumstances which originally compelled him to tender the resignation;

(ii)

(iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days;

(iv) that the aforementioned period of ninety days shall be observed in the manner that the employee concerned should put in his application for withdrawal of resignation within two months of being relieved and the same should as far as possible be processed within a period of one month.

9. From the above discussion and reading of the Rule 7.5 (4), it is clear that the claim of the petitioner to rejoin service after a gap of 14 months is not in consonance with statutory rules. Therefore, this Court is not inclined to interfere in the matter and the present writ petition is dismissed being devoid of any merit.

April 24, 2017

Ansari

**(JAISHREE THAKUR)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*