

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.12314 of 2018

Date of Decision:-23.05.2018

Gurmeet Ram.

.....Petitioner.

Versus

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH.

Present:- Mr. D.K. Bhatti, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner-Gurmeet Ram, who was working as a Patwari in respondent department has sought quashing of the order dated 24/27/01/2017 (Annexure P-5), whereby his application for seeking pre-mature retirement was accepted and consequently, he was relieved from his duties.

Learned Counsel for the petitioner has argued that the petitioner had sought voluntary retirement from respondent department vide his application 10.08.2016 (P-1), due to health problems, which was accepted by the department vide order dated 24/27.01.2017 (P-5). However, at the time of release of actual benefits, the respondent-department wrongly awarded him pre-mature retirement benefits under Sub Rule 1 of Rule 3 of Punjab Civil Service (Premature Retirement) Rules, 1975, leading to great financial loss to him, as weightage of 5 years of increased qualifying service

was not counted towards the said retiral benefits. Consequently, the petitioner moved a fresh application dated 07.03.2017 (P-7) through proper channel for withdrawal of his retirement order dated 24/27.01.2017 (P-5) on the premise that his health has improved. It is the contention of the counsel that his application was duly recommended by his senior officer i.e Tehsildar Jalandhar-1 vide letter dated 09.03.2017 (P-8) and therefore, he should be taken back into service, especially when his conduct pre-retirement and post-retirement has remained blemishless and thus, his case falls under the provision of Rule 7.5 of Punjab Civil Service Rules, Vol-I, Part 1.

I have heard learned Counsel for the petitioner and perused the paper book with his able assistance. However there is no merit in the present writ petition and therefore same is liable to be dismissed.

Admittedly, petitioner himself had sought voluntary retirement from the department concerned on the ground of his ill-health. It seems that after the petitioner's application for voluntary retirement was accepted by the department vide order dated 24/27.01.2017 (P-5) and his retiral benefits were calculated/released that he realized the magnitude of financial loss suffered by him due to his aforesaid decision of voluntary retirement. The plea of petitioner, vide application dated 07.03.2017 (P-7) that he is now in better health is a complete afterthought. No doubt, Rule 7.5 (4) of Punjab Civil Service Rules, Vol-I, Part-1 gives a discretion to the employer to permit the employee to withdraw from his resignation within a period of two months from acceptance of resignation, however, that does not *ipso-facto* means that the employer is bound to take the employee back in service. Here, despite the recommendation letter issued by Tehsildar

concerned (P-7), the employer has chosen not exercise its discretion.

This court, while exercising powers under Article 226 of the Constitution, cannot force an employer to take back an employee who has himself resigned from his job. It is for the employer to decide whether he intends to avail the services of such employee or not.

In view of the above, finding no merit, present writ petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

May 23, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>