

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

**Civil Writ Petition No.15076 of 2017 (O&M)
Decided on : 27.08.2018**

Hari Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. B.S. Dhillon, Advocate for the petitioner.

Mr. Shivendra Swaroop, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

The present writ petition under Article 226/227 of the Constitution of India has been filed for directing respondents No.2 to 4 to allow the petitioner to work as Chowkidar with continuity in service in the pay scale & allowances as applicable from September, 2015 onwards upto the age of 65 years in view of notification dated 04.07.2016 (Annexure P-2).

Counsel for the petitioner has argued that in view of the amendment made on 04.07.2016 (Annexure P-2), the petitioner who was working as Chowkidar, was entitled to continue till the age of 65 years.

It is the own case of the petitioner that his date of birth is 08.04.1954 (Annexure P-8) and, thus, he would have completed the age of retirement in April, 2014 at the age of 60 years. The amendment is not retrospective in the case of present petitioner, who has already retired and would not be entitled, as such to continue. Once the petitioner stood retired as per the relevant rules in force, he cannot seek the benefit to continue to perform the duties upto the age of 65 years. The amendment reads as under:-

“2. In the Haryana Chowkidara (Watchman) Rules, 2013, in rule 4,-

(i) in sub-rule (2), for the sign, “.” existing at the end, the sign “.” shall be substituted; and

(ii) after sub-rule (2), the following proviso shall be added, namely,:-

“Provided that a watchman may continue to perform the duties upto the age of Sixty-Five years on submission of medical fitness certificate issued by Government Dispensary/Hospital alongwith a report on antecedents obtained from the Superintendent of Police concerned on yearly basis.”

Merely because the petitioner's name has been recommended as such by respondents No.3 and 4, he cannot claim the benefit of the pay and allowances, in the absence of any such order having been passed.

Faced with this situation, counsel does not press the first aspect regarding pay and allowances.

However, in view of the fact that the petitioner's case has been recommended by respondent No.3 on 05.06.2017 (Annexure P-7) as per the above said provisions, subject to his medical fitness, the present writ petition is disposed of with a direction to respondent No.2 to take a decision upon the application (Annexure P-4), which has been forwarded by respondent No.4 vide Annexure P-6 to respondent No.3, within a period of 2 months. In case the petitioner is found fit and comes within the ambit of the amended rules, he would be entitled for all necessary benefits in accordance with law from the date of such decision.

Disposed of.

AUGUST 27, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No