

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

CWP-6344-2018

Date of Decision: 27.04.2018

Suresh Kumar Bansal

... Petitioner

Vs.

Punjab and Haryana High Court and another

... Respondents

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

Present : Mr. Sanjiv Gupta, Advocate
for the petitioner.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has challenged order dated 3.11.2017 (Annexure P-7), which is in service appeal against the order of compulsorily retirement dated 18.11.2009 (Annexure P-1).

2. During pendency of the inquiry proceedings, petitioner is stated to have submitted application for voluntarily retirement. It was not accepted due to pendency of the inquiry. In view of these facts and circumstances, petitioner withdrew the application for voluntarily retirement. The said issue has been taken note while deciding the service appeal and based on the petitioner's submission, compulsorily retirement has been converted into voluntarily retirement. Such conversion would be effective from the date of compulsorily retirement dated 18.11.2009 which is stated to have given effect w.e.f. 30.11.2009. Now the petitioner's contention is that such conversion should be prospectively i.e. w.e.f. 3.11.2017 instead of 30.11.2009. The aforesaid contention of the petitioner cannot be accepted in view of the fact that petitioner on his own requested while deciding the service appeal to the extent that he may be permitted to now take voluntarily retirement since compulsorily retirement penalty would attach stigma.

Having requested for conversion of compulsorily retirement to that of voluntarily retirement, petitioner cannot turn around and say that he is entitled to voluntarily retirement w.e.f. 3.11.2017 the date on which service appeal was decided. Petitioner could have insisted to decide his service appeal on merit if he was not satisfied with the conversion of compulsory retirement to voluntarily retirement. Moreover, it is to be noted that while deciding service appeal dated 3.11.2017, compulsorily retirement dated 18.11.2009 was not set aside. Further question of regulating intervening period from 18.11.2009 to 3.11.2017 do not arise unless and until compulsorily retirement order dated 18.11.2009 is set aside. In view of these factual aspects, petitioner has not made out a case to interfere with the order dated 3.11.2017 (Annexure P-7).

3. Accordingly, petition stands dismissed.

27.04.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**