

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Writ Petition No. 19190 of 1996(O&M)
Date of Decision : 28.08.2019

Kanwar Paul Singh

... Petitioner

versus

State of Punjab & Ors.

... Respondents

CORAM:-HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Ms. Samina Dhir, DAG Punjab.

ARUN MONGA, J

1. Impugned herein, *inter alia*, is an order/ letter dated 16.05.1996 (Annexure P-1) asking the petitioner to deposit Rs.24,779/- by way of recovery.
2. The writ petition was filed in the year 1996. Vide order dated 08.04.1997, the writ petition was admitted and the impugned recovery demanded was stayed.
3. On being taken up for hearing today, none appears for the petitioner.
4. A perusal of record shows that petitioner joined the services as Drawing Master on 18.11.1964 and was 50% physically handicapped, as stated in para No.3 of writ petition, which is not disputed by the respondents in corresponding para of written statement.
5. On conjoint perusal of pleadings, I am of the view that not only, at this stage, equity is heavily loaded in favour of the petitioner, but even otherwise, on merits writ petition deserves to be allowed.
6. The petitioner joined the services in 1964 and by a rough

estimate, he would now be 75 years old and would have superannuated from service. That apart, recovery is imposed on him at the relevant time ostensibly on the ground that he had not pass the Punjabi language upto Matric level as required under Section 6(2) of the Security of Service Act, 1981(for short, 1981 Act). While, on the other hand, letter/ instructions dated 20.08.1980 (Annexure P-2/T) issued by the Director Education Department, Punjab Chandigarh, clearly envisages that Teachers who joined the service prior to 1967 were exempted from passing the Punjabi test up to Matric standard.

7. In the premise, recovery order/ letter dated 16.05.1996(Annexure P-1) is unsustainable in the eyes of law and on this short premise alone writ petition deserves to be allowed. Particularly, in view of the fact that issuance of instructions dated 20.08.1980, *ibid*, is not denied. Only justification that has been rendered is that vide subsequent Rules of 1981, it was mandatory for an employee to acquire knowledge of Hindi and Punjabi upto matriculation standard within a period of two years from the date of his/ her appointment or the commencement of 1981 Rules, whichever is earlier. I am of the view that the later Rules cannot be applied to the petitioner to his detriment as he would continue to be governed by the relevant rules prevailing at the time of his initial appointment. His service conditions cannot be changed to his detriment by way of implementation of subsequent rules.

8. In the premise, impugned order dated 16.05.1996(Annexure P-1) is quashed with all consequential benefits.

9. Writ petition is allowed in above terms.

10. No order as to costs.

28.08.2019

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(ARUN MONGA)
JUDGE

1. Whether speaking/ reasoned: Yes/ No

2. Whether reportable: Yes/ No