

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

(218)

CWP-10785-2016

Date of Decision: February 15, 2019

Naveen Kumar Sethi

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vipin Mahajan, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the prayer made by the petitioner is for the release of the pensionary benefits such as Gratuity, Provident Fund and Pension alongwith interest @ 12% from the date the petitioner resigned from service i.e. 24.05.2002.

Learned counsel for the petitioner states that though the petitioner resigned, but still the petitioner will be entitled for the pensionary benefits.

On the other hand, learned counsel for the respondents states that as per the Rule 7.5 of the Punjab Civil Services Rules, upon resignation, the service rendered by an employee stands forfeited and he/she is not entitled for any pensionary benefits. Rule 7.5 of the Punjab Civil Services Rules is as under:-

“7.5. (1) Resignation from a service or a post, unless it is allowed to be withdrawn in public interest by the appointing authority, entails forfeiture of past service.

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission,

another appointment, whether temporary or permanent, under the Government where service qualifies for pension.

(3) Interruption in service in a case falling under sub-rule (2), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government employee on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.

(4) The appointing authority may permit a person to withdraw his resignation in public interest on the following conditions, namely:—

(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) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;

(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; and

(v) that the post, which was vacated by the Government employee on the acceptance of his resignation or any other comparable post, is available.

(5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government employee resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or

under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.

(6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.”

I have heard learned counsel for the parties and have gone through the record.

Rule 7.5 of the Punjab Civil Services Rules is very clear that in case a person resigned from the post, his/her past service shall be forfeited and the said employee will not be entitled for any retiral benefit. The view is being supported by the decision of LPA No.181 of 2003 decided on 07.01.2009. By relying upon the Rule 7.5, this Court held that after resignation, no pensionary benefits can be allowed to the employee. The relevant paragraph of the judgment is as under:-

“ In view of the aforesaid legal position settled by the Hon'ble Supreme Court, it is held that a government employee, who has resigned from service, is not entitled to grant of pension and other retiral benefits in view of Rule 7.5 of PCS Rules.

Still further, in our opinion, provisions of Rule 6.16 (2) of the Punjab Civil Services Rules, as relied upon in the judgment on behalf of the employee/government servant lays down the amount of pension admissible to a government employee, who has retired from service, and does not confer an independent right to claim pension. We find that the reference to Rule 6.16 (2) of the Punjab Civil Services Rules in the judgments relied upon on behalf of the employee/government servant is provided in the Rules applicable in the State of Haryana only. Thus reference to Rule 6.16 (2) of the Punjab Civil Services Rules on behalf of the respondent Mehar Singh in the letters patent appeal and the petitioner Nirmaljit Kaur in

the writ petition for grant of pension on completion of 10 years service is totally misplaced, as in the Punjab Civil Services Rules applicable to State of Punjab, there is no Rule 6.16 (2) and it only exists in the State of Haryana.

In view of the above discussion, the appeal filed by the appellant-State of Punjab is allowed, the judgment dated 3.12.2002 passed by the learned Single Judge is set aside and the writ petition bearing CWP No.11126 of 1998 filed by Mehar Singh is dismissed. Writ Petition bearing CWP No.13401 of 2004 filed by the petitioner Nirmaljit Kaur is dismissed with no order as to costs.”

In view of the above, the claim of the petitioner is not at all permissible with regard to the grant of pension when admittedly petitioner had resigned from service.

The writ petition stands dismissed.

No order as to costs.

February 15, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No