

**Sr. No.245
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.21742 of 2019 (O&M)

Date of Decision: 14.10.2019

Har Partap Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. K.S.Dadwal, Advocate,
for the petitioner.

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

ARUN MONGA, J.(ORAL)

Short controversy in the case in hand i.e. whether the petitioner's request for premature retirement 3 months short of his superannuation can be rejected is no more *res integra* in view of Division Bench Judgment rendered by this Court in case titled as ***State of Punjab and others Vs. Dr. Bhushan Lal Malhotra*** reported as ***2011 (1) SLR 496***.

2. Having heard rival contentions of learned counsels and upon perusal of the pleadings of the case along with relevant record, I am of the opinion that the impugned order dated 25.07.2019, passed by the Deputy Commissioner, Hoshiarpur-respondent No.2, whereby petitioner's request seeking premature retirement has been declined on the ostensible ground that there exists shortage of Kanungo i.e. the post on which he is currently working, is not sustainable in law for the reasons stated

hereinafter.

3. Before adverting to the claim of the petitioner seeking premature retirement, it would be apposite to reproduce relevant Rule 3(3) of Punjab Civil Services (Pre Mature Retirement) Rules, 1975, hereinbelow:-

“3(3)(a) At any time after an employee has completed twenty years of qualifying service, he may, by giving notice of not less than three months in writing to the appropriate authority retire from service.

(b) The notice of voluntary retirement given under this sub-rule shall require acceptance by the appropriate authority.

(c) Where the appropriate authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.”

4. The above Rule was interpreted by this Court in the judgment, *ibid*, wherein M.M.Kumar, J. (as his Lordship then was) speaking for Division Bench opined as below:-

“In a given case of alleged misconduct, the authority may be justified in rejecting the request to the pre-mature retirement but not on the ground that there is scarcity of a particular class of employees. We cannot accept the contention that requirement of permission in the Rule is mandatory particularly when Clause (c) of Rule 3 says that if appropriate authority has not refused the permission for retirement before the expiry of the 90 days period then the retirement become effective from the date of expiry of the said period. Clause (c), in fact, takes away mandatory character of the Rule. Therefore, the argument that the State can put up any ground for

rejecting the prayer of an employee does not commend itself to us.”

5. Perusal of the above leaves no manner of doubt that the petitioner's request has been wrongly rejected vide impugned order dated 25.07.2019. The same is, accordingly, set aside.

6. As a consequence, respondents are directed to accept the petitioner's request for premature retirement and relieve him from service forthwith with all consequences flowing therefrom.

7. Disposed of in above terms.

14.10.2019

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No