

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6697-2020

Date of decision: 16.03.2020

Amandeep Singh

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Mohit Garg, Advocate
for the petitioner.

GIRISH AGNIHOTRI, J. (Oral)

Petitioner-Amandeep Singh had filed the present writ petition with a prayer to quash the show cause notice dated 13.12.2019 (Annexure P-5), wherein, decision has been taken to compulsorily retire the petitioner from service under Premature Retirement Rules 1975.

Learned counsel for the petitioner submits that at present the petitioner is approximately 47 years of age. He submits that a perusal of the notice dated 13.12.2019, would show that what has primarily weighed with the Committee is eight years service, which has been mentioned against the Column 'total seized service'.

Learned counsel firstly submits that out of these eight years' service, five years' service was ordered to be declared non-duty period in pursuance to the order dated 16.07.2018 (Annexure P-1). Vide order dated 16.07.2018, the Director General of Police has noticed that a case was

registered on 16.04.2012 against the petitioner. In the said criminal case, he has been acquitted by the Court. In view of the acquittal, the DGP had accepted the appeal and had reinstated the petitioner in service. The order dated 28.06.2013 dismissing the services of the petitioner, was set aside and the period from the date of dismissal i.e. 28.06.2013 to the date of reinstatement i.e. 16.07.2018, was ordered to be treated as non-duty period. The first submission of learned counsel for the petitioner is against this five years' service, which has been treated as non-duty period, learned counsel further submits that appeal against the said order is still pending.

Second submission of learned counsel for the petitioner is that regarding three years of service, an order has already been passed on 03.03.2020 (Annexure P-3), whereby, the Additional Director General of Police has ordered that the appeal is accepted and the punishment awarded by the Commissioner of Police, Ludhiana (wherein, his three years of regular service was ordered to be forfeited) was reduced to one year on temporary basis for increment and the period of his absence of 227 days was ordered to be treated as non-duty period. Learned counsel therefore submits that in view of the above, the Competent authority ought to have consider his representation which he had submitted on 29.01.2020 (Annexure P-6). Learned counsel further submits that till date, neither any order has been passed nor any decision has been taken on the representation dated 29.01.2020.

Learned counsel indicates that the said representation dated 29.01.2020, which was originally submitted to the Home Secretary, the

same shall also be submitted to the Competent Authority i.e. Commissioner of Police, Ludhiana, within a period of two days from the date of receipt of certified copy of this order.

This Court deems it appropriate to direct the Competent Authority i.e. Commissioner of Police, Ludhiana, to examine the said representation and the peculiar facts as submitted above i.e. firstly the acquittal by the Criminal Court which as stated by counsel for the petitioner is not on account of any official duty and secondly must take into account the fact that alleged absence, for which the Competent Authority has passed the order dated 03.03.2020 (which is after the impugned retirement notice dated 13.12.2019) be taken into consideration before passing the final order in pursuance to the compulsory notice of retirement dated 13.12.2019. Let the Competent Authority pass an appropriate order on the representation as expeditiously as possible. It is directed that till the decision of the said representation, *status quo* regarding services of the petitioner shall remain stayed.

(GIRISH AGNIHOTRI)
JUDGE

16.03.2020

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No