

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

CWP-8315-2021 (O&M)

Date of decision: 19.04.2021

VED PARKASH GUPTA

... Petitioner

Versus

STATE OF HARYANA AND ORS.

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Amit Parashar, Advocate for the petitioner.

ANIL KSHETARPAL, J.

Through this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has sought the following substantive reliefs:-

- i) A writ in the nature of Certiorari for quashing the order dated 05.11.2020 (Annexure P10) passed by respondent No.3 whereby the appeal filed by the petitioner has been dismissed which was filed against the order dated 04.09.2019 (Annexure P8) passed by respondent No.2, whereby the petitioner has been deemed to be retired prematurely as per order dated 30.04.2010 (P2) on attaining the age of 55 years and has been found unfit for grant of extension in service and three month salary has been given in the year 2020.
- ii) For the issuance of a writ in the nature of mandamus for directing the respondents to also consider the period from 30.04.2010 to 30.04.2013 as 'in service' period after setting aside the impugned order on premature retirement

in view of the official period.

The case of the petitioner has a chequered past. From the reading of the order, it is apparent that the petitioner remained suspended from service for about 18 years during his tenure of 36 years of service. During his tenure, he was removed from service on more than one occasions but again re-appointed, keeping a lenient approach, on humanitarian grounds. The petitioner during his service faced criminal prosecution in two FIRs both of which were investigated by the Central Bureau of Investigation. Although, in both the cases, he has been acquitted, however, in one case, he was acquitted on the ground that the CBI did not obtain the consent of the State of Haryana before lodging the FIR whereas in the other case, the Court acquitted the petitioner by making an observation against him that had he been diligent and careful in the discharge of his duties in issuing the armed licenses, then the issuance of duplicate licences could have been easily avoided. The petitioner was ordered to be retired prematurely on attaining the age of 55 years vide an order dated 30.04.2010. The petitioner had previously also filed a writ petition in this Court which was disposed of on 13.12.2013 with the following order:-

“As a result of this, the charge-sheet has been dropped, as the man stands acquitted, which makes a severe dent in the order of retirement dated 30.04.2010 and would tend to remove its base. I may have foreclosed the case and set aside the order dated 30.04.2010 in view of the subsequent events and considered directing the petitioner’s reinstatement with all consequential benefits as though the order was never passed and the petitioner by fiction stood retired on reaching the age

of superannuation at 58 years. However, I depart from adopting that course in view of the written statement filed by the State and on reading, inter alia, the contents of paragraphs 5 & 7, I believe that the better course would be to remand the case to the disciplinary-cum-punishing authority for passing a fresh order in accordance with law keeping the total picture of past and subsequent events in mind.

Accordingly, the instant petition is disposed of with a direction to the Deputy Commissioner/Collector, Gurugram to pass a fresh order keeping in view, inter alia, the order dated 03.10.2016. It is expected that the authority in remand would pass a reasoned order clearly speaking on each of the subject matters contained in the written statement filed in this Court and the conclusions reached on those points be articulated and whether they have anything to do with compulsorily retiring the petitioner at the age of 55. In case, the result of the fresh order is in favour of the petitioner, then he may be granted all the consequential benefits as would become available to him as a matter of right. For this, the petitioner will be effectively heard to remove doubts, if any. The entire exercise be completed within a period of three months from the date of receiving of certified copy of this order.

Accordingly, the present petition stand disposed of in the above terms.”

The petitioner has already crossed the given age of superannuation. He is out of service since 30.04.2010. The disciplinary proceedings against him were pending when the order in question was passed. It has been stated that the order has been passed in public interest.

Learned counsel representing the petitioner submits that the petitioner will be satisfied if the petitioner is awarded interest on the three months' salary as ordered by the Deputy Commissioner.

Keeping in view the facts of this case, this Bench is not inclined to entertain the writ petition at this stage. Also, the Bench does not seem it appropriate to pass an order with regard to the payment of interest on the three months' salary of the petitioner. Consequently, the writ petition is dismissed.

19.04.2021

ashok

Whether speaking/reasoned:
Whether reportable:

(ANIL KSHETARPAL)
JUDGE

Yes / No
Yes / No