

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

CWP-9401 of 2021 (O&M)

Date of decision: 23.11.2021

Surender Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.S. Antal, Advocate for the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana.

Mr. P.K. Mutneja, Sr. Advocate with
Mr. Brijesh Kumar, Advocate for respondent No.4.

H.S. MADAAN, J.

1. Petitioner Surinder Singh son of Om Parkash, resident of VPO Dabra, District Hisar, Cane Supervisor (Permanent) has filed the present civil writ petition against the respondent i.e. State of Haryana and 03 others craving for issuance of directions in the nature of mandamus directing respondent No.4-Managing Director, Karnal Cooperative Sugar Mills Ltd., Karnal not to relieve the petitioner on 31.05.2021 on attaining the age of 58 years as the case of petitioner is covered under Sugar Wage Board where the age of retirement is 60 years.

2. As per case of the petitioner, he was appointed as Cane Development Supervisor (Permanent) in Bhuna Cooperative Sugar Mills Ltd. Hisar on 26.09.1997; the said sugar mill was sold by Haryana Government to a private concern i.e. Wahid and Sandhar Sugar Mills

Private Ltd., on 15.11.2005; the services of the petitioner were dispensed with on 15.11.2005 itself without issuing any notice to him whereas some of the other employees had been shifted and adjusted in various other sugar mills by Government of Haryana before sale of Bhuna Cooperative Sugar Mills Ltd. Hisar to a private concern.

3. Feeling aggrieved by such situation, the petitioner and other employees of Bhuna Cooperative Sugar Mills filed a writ petition in this Court, which was accepted and the petitioners in that writ petition were ordered to be adjusted in various sugar mills in the State of Haryana and other cooperative departments; in compliance with the order dated 28.01.2015 passed by this Court, the petitioner was given appointment as Cane Supervisor (Permanent) with respondent No.4 i.e. Karnal Cooperative Sugar Mills Ltd., Karnal; the petitioner was shown to be retiring on 31.05.2021 on attaining the age of 58 years in the seniority list of employees, whereas, some other employees were reflected to be retiring on age of 60 years; according to the petitioner, employees of Karnal Cooperative Sugar Mills covered by Sugar Wage Board are being retired on attaining the age of 60 years; Ram Partap, a similarly situated person, who was Cane Clerk (Seasonal) with Palwal Cooperative Sugar Mills Ltd. is scheduled to be retiring on attaining the age of 60 years.

4. The petitioner had submitted a representation dated 15.03.2021 to respondent No.3-Managing Director, Haryana State Federation of Cooperative Sugar Mills, Ltd., Panchkula for retiring him on attaining the age of 60 years instead of 58 years but to no effect, as

such, the petitioner has filed present writ petition.

5. On notice, respondents put in appearance and filed written statement, contesting the writ petition, *inter alia* raising preliminary objections that in the appointment letter issued to the petitioner on 15.12.2015, it is clearly mentioned that he would be retired from service of respondent No.4 on attaining the age of 58 years and petitioner cannot continue in service thereafter; since the petitioner had accepted the letter of appointment, now he cannot turn around and state that he be retired at the age of 60 years and not on attaining the age of 58 years; it was a fresh appointment of petitioner with respondent No.4 and neither any benefit of any past service statedly rendered by him with Bhuna Cooperative Sugar Mills, Ltd. Hisar had been given to him nor he was entitled to the same; the recommendations made by third Sugar Wage Board had ended on 30.08.2009 and persons appointed after that date got appointments in a new scale and their appointments were as per Rule 14 of Services of the Rules for employees of Cooperative Sugar Mills in the State of Haryana, which provides that all the employees except covered under Sugar Wage Board shall retire from service on attaining the age of 56 years, which can be extended by a period of 02 years in case the employee is found to be outstanding and competent for the duties and health of the employee so permits subject to approval of the Registrar, whereas, retirement age for the employees covered under Sugar Wage Board will be as per retirement age mentioned in the Wage Board recommendations.

6. On merits, the respondents reiterated the pleas taken in the

preliminary objections while praying for dismissal of the writ petition.

7. I have heard learned counsel for the parties besides going through the record and I find that the writ petition is devoid of any merit. The petitioner was initially in the employment of Bhuna Cooperative Sugar Mills Ltd., Hisar, the stakes of which had been transferred to a private concern. Resultantly, services of petitioner and several other employees of Bhuna Cooperative Sugar Mills were dispensed with and it was on intervention of this Court that such employees who were without any jobs were ordered to be adjusted. A copy of the judgment passed in such writ petitions has been placed on record by the petitioner as Annexure P-2. The concluding part of the judgment reads as follows:-

“Having heard the learned counsel for the parties at considerable length and after giving thoughtful consideration to the peculiar fact situation noticed hereinabove, all these writ petitions are disposed of with direction to the respondent authorities to adjust all the ex-employees of the erstwhile Bhuna Cooperative Sugar Mills including the petitioners, on the posts of their respective categories, against available vacant posts in other cooperative sugar mills, as well as other cooperative institutions of the respondent State, as early as possible, subject to fulfillment of eligibility criteria, prescribed under the relevant Service Rules, however, granting relaxation in age, wherever it is required.

It is further directed that the respondent authorities shall make an endeavour to adjust all the ex-employees of erstwhile Bhuna Cooperative Sugar Mills in their respective categories, at an early date because it will be in the interest of the petitioners as well as the Welfare State. Except in the emergent situations, the respondent authorities shall not fill any vacant

post in the cooperative sugar mills as well as other cooperative institutions in the State, till the ex-employees of erstwhile Bhuna Cooperative Sugar Mills are adjusted. However, it is also made clear that the appointments given to the ex-employees of erstwhile Bhuna Cooperative Sugar Mills would be treated as fresh appointments.

With the abovesaid observations made and directions issued, all these writ petitions stand disposed of, however, with no order as to the costs.”

8. A very important point to be noticed is that this Court had clarified that the appointments given to the ex-employees of erstwhile Bhuna Cooperative Sugar Mills would be treated as fresh appointments, therefore, petitioner or any other employee who had filed the writ petition cannot claim benefit of past service with Bhuna Cooperative Sugar Mills. The appointment letter issued to the petitioner, copy of which is available on record as Annexure P-3 further clarifies the matter. As per clause 13 of the appointment letter, the petitioner would in all other respects be governed by Service Rules of the Mills establishment applicable from time to time and clause 19 makes the things crystal clear where it is mentioned that the appointee would be retired from the mills service at the age of 58 years. All such conditions have been accepted by the petitioner as is evident from last two lines of the appointment letter which run as follows:-

“You are directed to return the the duplicate copy of this letter of appointment duly signed in token of your acceptance of these terms and conditions.”

9. The petitioner having accepted such conditions cannot be

allowed to back out of the same and start claiming that his age of retirement should be taken as 60 years being covered by Sugar Wage Board. As per specific stand of the respondents, such 3rd Sugar Wage Board recommendations had ended on 30.08.2009 much before the petitioner was taken in the employment of respondent No.4, therefore, he cannot take advantage of such recommendations and come up with a plea that he be retired at the age of 60 years and not 58 years.

10. Another interesting aspect to be seen is that the petitioner himself had accepted the terms and conditions of his employment clarifying that he would be retired at the age of 58 years. He kept quiet and only a few days before his date of retirement, he has approached this Court by way of filing the present writ petition. He is clearly estopped from doing so by his own act and conduct.

11. The writ petition is found to be without merit and the same stands dismissed accordingly.

23.11.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No