

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

CWP-19292-2020

Date of decision: - 22.01.2021

Mahabir Singh

....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sajjan Singh, Advocate
for the petitioner.

Ms. Rajni Gupta, Additional Advocate General, Haryana.

(Through Video Conferencing)

HARSIMRAN SINGH SETHI, J. (ORAL)

Present petition has been filed by the petitioner challenging the order dated 06.11.2020 (Annexure P-1) by which, he has been declined the extension in service beyond the age of 55 years. One of the contention raised on behalf of the petitioner is that the said order has been passed without following the due procedure as laid down in the rules governing the service.

Learned counsel for the petitioner submits that as per the policy/instructions, which has been issued by the Government of Haryana dated 05.02.2019 (Annexure-14), which deals with the premature retirement of an employee, who has attained the age of 50/55 years, a

notice not less than three months in writing or the pay and allowances in lieu of the said notice period is to be given for the proposed premature retirement, which procedure has not been followed while passing the order dated 06.11.2020 (P-1) and the petitioner has been relieved immediately upon the passing of the said order and hence, the impugned order dated 06.11.2020 (P-1) is not in consonance with the policy/instructions dated 05.02.2019 (Annexure P-14) issued by the respondent-State, hence, the same is liable to be set aside.

On the last date of hearing, the following order was passed by this Court: -

“CM-533-CWP-2021

Present application has been filed for placing on record replication to the written statement filed on behalf of respondents No. 1 and 2.

Application is allowed and replication to the written statement filed on behalf of respondents No. 1 and 2 is taken on record.

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Learned counsel for the respondents seeks an adjournment so as to verify whether, before the passing of the impugned order, any show cause notice was issued to the petitioner, which is one of the requirement while taking action against Rule 145 of the Haryana Civil Services (General) Rules, 2016.

An affidavit to this effect should also be filed by the next date of hearing.

Adjourned to 22.01.2021.”

Learned State counsel very fairly submits that the procedure, as envisaged in the policy dated 05.02.2019 (P-14), while declining the extension in service to the petitioner has not been followed in the present

case and the petitioner has not been given three months notice or the salary in lieu of three months as required for and therefore, the impugned order dated 06.11.2020 (P-1) be treated as withdrawn with liberty to the department to pass a fresh order in accordance with law.

In view of the above, as the impugned order dated 06.11.2020 (P-1) has been treated as withdrawn by the respondents, the present writ petition has been rendered infructuous and the same is disposed of as such.

Needless to say that the respondents will be within their jurisdiction to pass appropriate order afresh after following the due process as envisaged under the rules/regulations/policy governing the said aspect. Petitioner will be deemed to be continuous in service as of now, subject to any order which is passed afresh by the respondents.

(HARSIMRAN SINGH SETHI)
JUDGE

January 22, 2021
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No