

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

201

CWP No.12276 of 2020 (O&M)
DATE OF DECISION : 6th APRIL, 2022

Ranbir Singh Rana

.... Petitioner

Versus

**Central Warehousing Corporation, Corporation, New Delhi &
another**

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Mr. Amar Vivek Aggarwal, Advocate and
Ms. Deepika Sood, Advocates, for the petitioner.

Mr. Ravi Sharma, Advocate for the respondents.

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RAJBIR SEHRAWAT, J. (Oral)

1. The petitioner has filed this petition under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of certiorari for setting aside impugned communication dated 15.07.2020 (Annexure P-23) and still further setting aside the action of the respondents in accepting the voluntary retirement request of the petitioner dated 31.05.2020 (Annexure P-20), in complete derogation of the fact that in pursuance of the respondents' communication dated 02.06.2020, the petitioner had already withdrawn his voluntary retirement request on 04.06.2020; along with certain other prayers

2. Shorn of the unnecessary details, the case of the petitioner is that he was serving as Warehouse Manager, at Solan under the Regional Office, Chandigarh of the respondent-Corporation. Since, the respondents were not making provision of appropriate staff at the place where the

petitioner was working and it was getting impossible for him to perform all duties of that place on his own, therefore, feeling hard pressed; the petitioner had written a letter dated 31.05.2020 (Annexure P-20) informing the respondents that either he should be permitted to retire after expiry of three months from the date; or he should be posted at Chandigarh. The Regional Office received the said letter from the petitioner and returned the same on 02.06.2020 with an assertion that the letter did not have any unconditional request either qua posing at Chandigarh or qua voluntary retirement. Therefore, the petitioner was asked to submit unconditional request for voluntary retirement by 05.06.2020, if he so desired to retire. However, the petitioner did not submit any such unconditional request, rather, he had written a letter on 04.06.2020 intimating the authorities that he was withdrawing his request for voluntary retirement. Despite that, the respondents have passed an order, statedly, accepting the request for voluntary retirement of the petitioner; on 15.07.2020, vide impugned order (Annexure P-23). To challenge this action of the respondents, the present petition has been filed by the petitioner.

3. Arguing the case, learned counsel for the petitioner has submitted that as on date when the respondents had accepted the request of the petitioner for voluntary retirement, there was no request ever submitted by the petitioner. Because of casualness of the higher authorities in not arranging the adequate staff at the centre where the petitioner was posted, he had made an conditional request for retirement out of frustration; growing from his inability to do the entire duties of the centre on his own. Even, the said request was, in fact, not voluntary, as

such, and the same was made under the pressing circumstances to which the inaction of the respondents had put the petitioner. In any case, the Regional Office of the respondents had returned the said request asking the petitioner to submit an unconditional request for voluntary retirement. Thereafter, the petitioner had never submitted any unconditional request for voluntary retirement. On the contrary, the petitioner had informed the respondents that he did not want to retire and that he was withdrawing his earlier request; as well. Therefore, there was no case with the respondents for the voluntary retirement of the petitioner as on the date when the petitioner has been ordered to be voluntarily retired. Hence, the order is totally illegal.

4. On the other hand, the counsel for the respondents has submitted that Regulation 21 of the Central Warehousing Corporation (Staff) Regulations, 1986, prescribes that once the request for voluntary retirement has been made, then the same cannot be withdrawn. Hence, once the petitioner had submitted his request for voluntary retirement, then he could not have withdrawn the same. Hence treating the request of the petitioner pending with the respondents, the same has been accepted.

5. Having heard the counsel for the parties and having gone through the record, this court finds sufficient merit in the arguments raised by counsel for the petitioner. Although, it is not disputed that out of frustration the petitioner had submitted letter containing two alternatives, of either posting him at Chandigarh or for permitting him to retire. This kind of communication can never be taken to be a voluntary request for retirement, as such. Rather, the underlying reason is

something else than the volition of the employee. The same is true about the request made by the petitioner as well. In any case, whatever was the type of letter written by the petitioner, the same had never reached the competent authority for any further action. Rather, the same was returned by the Regional Office itself, asking the petitioner to re-submit the same in unconditional terms. However, the petitioner never re-submitted the said request any further. On the contrary, the petitioner had intimated to the respondents that he was not making any request for retirement and that he was withdrawing his earlier request as well. Therefore, there was no communication containing the voluntary retirement request by the petitioner, which could have been dealt with by the competent authority at the head office. Hence, the impugned order has been passed without there being any valid request on the part of the petitioner.

6. Otherwise also, it is well settled law that once the employee gives a notice for voluntary retirement after expiry of duration of notice period, he is fully entitled to withdraw the same before that date or before the actual acceptance of the same by the competent authority. The Regulation 21, which is relied upon by counsel for the respondents is also to be read in view of this settled legal proposition. The bar against withdrawal, as contained in the said regulation has to be read to the extent that the petitioner could not have withdrawn the request before the statutory period of three months, had the authority already accepted the request of the petitioner; submitted for voluntary retirement. However, in the present case, no such request was made by the petitioner to the competent authority. Whatever, correspondence the petitioner had made

in this regard same was returned by the Regional Office only. Hence, the authority could not have passed the impugned order. The impugned order is totally without any basis.

7. In view of the above, the present petition is allowed. The impugned communication dated 15.07.2020 (Annexure P-23) passed by the respondents is set aside.

6th APRIL, 2022
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>