

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

CWP No.13092 of 2012

Date of decision: 2nd February, 2022

Rajinder Pal Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Kamaldip S. Sidhu, Advocate for the petitioner.

Ms. Anju Sharma Kaushik, Dy. Advocate General, Punjab
for the respondents/State.

FATEH DEEP SINGH, J.

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Petitioner Ex-constable Rajinder Pal Singh (No.1980/Ludhiana) joined Punjab Police department as a Constable on 15.11.1980 and was allotted number 599 in the district of Sangrur. After his training, the petitioner was posted in Ludhiana district in the year 1985 where he joined as Constable and was allotted Constabulary No.1980. It is claimed by the petitioner in his petition by invoking Articles 226/227 of the Constitution of India seeking issuance of writ of mandamus for direction to the respondents to pay back his pension and other service benefits, that he met with an accident and due to his ill-health he put down his paper for voluntary resignation which was accepted vide order dated

21.08.1991 (Annexure P2), as a consequence of which he was discharged from service on 26.08.1991 (Annexure P3). Undisputedly and which is the admitted case of the respondents as has been submitted on behalf of the State by Ms. Anju Sharma Kaushik, Dy. Advocate General, Punjab, from 15.11.1980 to 17.08.1991 the petitioner has done more than 10 years, 9 months and 2 days of service. The only contentious issue in this matter is whether the petitioner is entitled to his service benefits or not?

Mr. Kamaldip Singh Sidhu, Advocate for the petitioner has sought to place reliance upon Rule 6.16A(2) of the Punjab Civil Service Rules (Vol.II), which is reproduced as below to lay emphasis, to drive home the point that under these Rules the petitioner is entitled to pension commensurate with the years of service he has put in and has cited **‘Haryana State through Collector, District Bhiwani, Bhiwani vs. Madan Pal Ahlawat’ 2003(1) SCT 327.**

“6.16A (2). In case the qualifying service of a Government employee is ten years or more but less than twenty-five years, the amount of pension shall be such proportion of the maximum pension admissible under subrule (1) as the qualifying service rendered by him bears to the maximum qualifying service of twenty five years.”

Learned State counsel Ms. Anju Sharma Kaushik, Dy. Advocate General, Punjab with all fairness concedes the fact as to the interpretation of the Rules so cited at the bar by learned counsel for the petitioner. In the case of **‘Haryana State through Collector Jind vs.**

Ex.Const. Jai Singh, No.244’ RSA No.2682 of 2001 decided on 26.09.2001; and ‘Ganga Bishan v. State of Haryana’ 1994(3) SCT 154 (P&H), it was laid down that an employee subject to the provisions of these Rules, who has put in ten years of service, is entitled to grant of pension. So is the ratio of the Supreme Court in ‘Haryana State through Collector, District Bhiwani, Bhiwani vs. Madan Pal Ahlawat’ (supra) which has considered all the judgments i.e. ‘Haryana State through Collector Jind vs. Ex.Const. Jai Singh, No.244’ (supra); ‘Ganga Bishan v. State of Haryana’ (supra); ‘Jagdish Mitter vs. State of Punjab’ 1998(4) SCT 157; and ‘Babu Singh vs. State of Haryana’ CM No.10362 of 1999 in CWP No.2890 of 1997.

Though the counsel for the two sides have sought to rely on Rule 6.16A(2) of the Punjab Civil Service Rules (Vol.II); however this Court in **‘State of Punjab & others vs. Mehar Singh’ (LPA No.181 of 2003 in CWP No.11126 of 1998)** vide its judgment dated 07.01.2009 has held that the said provisions of Rule 6.16A(2) of the Punjab Civil Service Rules (Vol.II) are applicable only in the State of Haryana and the present case pertains to the State of Punjab where to the specific query of this Court no such provisions could be cited by any of the counsel from the two sides. It has been held by this Court in **Mehar Singh’s case** (ibid) that a Government employee who has resigned from service in the State of Punjab, is not entitled to grant of pension and other retiral benefits in

view of Rule 7.5(1) of the Punjab Civil Service Rules, which is reproduced as follows:-

“7.5 (1) - Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.”

Rule 7.5(1) of the Punjab Civil Service Rules clearly and explicitly entails that the petitioner shall not be entitled to any pension/ pensionary benefits and his entire service stands forfeited, especially in the light of the fact that nothing is substantiated on the records to establish that the voluntary resignation was on account of compelling reasons beyond the control of the petitioner.

In the light of foregoing discussions, the petitioner is not entitled to any relief and the present writ petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

February 2, 2022

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No