

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28774-2022
Date of Decision : 14.12.2022

Harpal Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. R.S.Mamli, Advocate with
Mr. Bhavdeep Singh Mamli, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present writ petition challenges the order dated 18.11.2022 (Annexure P-10) vide which the legal notice issued on behalf of the petitioner seeking service upto the age of 62 years was dismissed and the communication dated 26.11.2014 (Annexure P-9) vide which the decision to increase the retirement age from 60 to 62 years was rolled back.

The facts, as pleaded, are that the petitioner is a peon working in the office of respondent No.4. He joined service on 22.11.1993 and is stated to have been working continuously thereafter. He is due to superannuate in the end of December having attained the age of 60 years on 02.12.2022. On 29.08.2014, vide Annexure P-4, the retirement age of the physically disabled employees was raised from 60 to 62 years but on 26.11.2014 vide Annexure P-9, the decision to increase the age from 60 to 62 years was rolled back.

Aggrieved by the said decision, the petitioner approached this Court
by way of CWP-20634-2022 which was disposed of vide order dated 12.09.2022

(Annexure P-8) with a direction to the respondents to decide the legal notice dated 17.07.2022 (Annexure P-6) within a period of two months. By way of the impugned order dated 18.11.2022 (Annexure P-10), a decision on the legal notice has been taken and it has been stated that the decision to increase the retirement age from 60 to 62 years had been rolled back in November, 2014.

Against the rejection (Annexure P-10) of the legal notice as also the decision dated 26.11.2014 (Annexure P-9), the present writ petition has been filed.

Learned counsel for the petitioner submits that the action of the respondents in rolling back the decision to increase the retirement age to 62 years is arbitrary and once a decision had been taken to increase the age, the same could not have been rolled back with retrospective effect. It has also been argued that the petitioner acted upon the decision taken to increase the age and, therefore, the subsequent decision could not have been taken to his detriment.

On a perusal of the documents annexed with the writ petition and the impugned order Annexure P-10, it emerges that that the case of the petitioner is completely devoid of merit. First of all, the petitioner has challenged the decision dated 26.11.2014 in the year 2022 without giving any explanation as to why it was not challenged earlier. The petitioner has tried to cover up this delay by issuing a legal notice in July, 2022 and then getting the same decided by way of the present impugned order dated 18.11.2022. However, this alone would not be sufficient to cover the inordinate delay of 08 years. It is apparent that the petitioner has woken up when the petitioner realized that he is going to retire in December, 2022 as a result of which he issued a legal notice in July, 2022 followed by the first writ petition and finally the present writ petition.

Even on merits, the petitioner has no case. The decision to increase the retirement age to 62 years was taken by the respondents on 26.08.2014, as has

been mentioned in the impugned order dated 26.11.2014 (Annexure P-9). The decision regarding increase of age of physically disabled employees from 60 years to 62 years was taken on 29.08.2014. This decision was rolled back on 26.11.2014. The impugned order dated 18.11.2022 (Annexure P-10) shows that even qua disabled employees, such decision was notified in the Haryana Civil Services (General) Rules, 2016. The argument that such a decision could not have been taken retrospectively to the detriment of the petitioner, is devoid of merit. It was for the respondents to take a **call** on the age of retirement and in accordance with the same, they initially increased the age but on a reconsideration of the matter, the decision to increase the retirement age was rolled back. The petitioner cannot, in any manner, be stated to have suffered any prejudice with this action of first increasing the retirement age and then rolling back the said decision.

In view of the aforementioned facts and circumstances, finding no merit in the present petition, the same is dismissed.

(VIKRAM AGGARWAL)
JUDGE

14.12.2022
mamta

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