

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18710-2023

DATE OF DECISION: AUGUST 31, 2023

BALBIR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA.

PRESENT: MR.CHARANPREET SINGH, ADVOCATE
FOR MR. B.S. KATHURIA, ADVOCATE
FOR THE PETITIONER.

MR. ARUN GUPTA, AAG, PUNJAB.

MS. AFREEN CHAUDHARY, ADVOCATE
AND MR. MANAV SHARMA, ADVOCATE
FOR RESPONDENT NO.2.

DEEPAK MANCHANDA, J.(ORAL)

The petitioner has filed this writ petition under Article 226/227 Constitution of India to issue a writ in the nature of mandamus directing the respondents to decide representation dated 9.8.2023 (Annexure P-4) and 14.8.2023 (Annexure P-5) and to allow the petitioner to continue in service till 60 years of age.

Learned counsel for the petitioner submits that the petitioner was appointed as Peon on regular basis on 21.3.2012 in the office of Punjab Ex-servicemen Corporation and has an unblemished record till date. He further submits that on 2.3.2020, a Notification was issued by the State of Punjab amending Rule 3.26(a)(ii) of the Punjab Civil Service Rules vide which the retirement age of all the employees of Group 'D' has been

extended from 58 years to 60 years and will retire at the age of 60 years.

Learned counsel for the petitioner contends that the petitioner has completed 58 years of age as on 15.8.2023 and has an apprehension that the respondents may retire him forcefully today itself, i.e. 31.8.2023. He further contends that he has sent representations dated 9.8.2023 (Annexure P-4) and 14.8.2023 (Annexure P-5) in this regard to the respondents.

On 29.8.2023, learned State counsel sought time to take instructions. Learned State counsel submits that the contesting respondent is respondent No.2.

Today, Ms.Afreen Chaudhary, Advocate has put in appearance on behalf of the Corporation-respondent No.2 and on instructions, while referring to the proceedings of 143rd Meeting of the Board of Directors held on 30.12.2020 submits that the Board of Directors unanimously agreed to adopt the retirement age of PESCO regular Group-D employees from 58 years to 60 years in consonance with Punjab Civil Services Rules, as amended and to forward the case to the Government for amendment in the Punjab Ex-Servicemen Corporation (Service) Regulations, 1993, but the same is under consideration with the Government and has not been accepted as yet. She further submits while referring to the correspondence made vide letters dated 17.5.2023, 06.06.2023 and 17.07.2023, photocopies of which have been provided during the Court proceedings, wherein a reference for service revision from 58 to 60 years of Group-D employees had been made, but till today the required amendment in the regulations of the Corporation has not been made and unless and until the regulations are amended and said amendment is incorporated in the Punjab Ex-Servicemen Corporation

(Service) Regulations, 1993, the prayer of the petitioner cannot be accepted at this stage. Learned counsel appearing on behalf of respondent No.2 also refers to the Section 31 of the Punjab Ex-Servicemen Corporation Act, 1978, which has been reproduced hereinbelow for ready reference-

“31. (1) The Corporation may, with the previous approval of the Government, make regulations not inconsistent with this Act and the rules framed thereunder to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for-

(a) The duties which [the Chairman, the Vice Chairman] and the Managing Director shall perform.

(b) The time and places of meetings of the Board and the Committees appointed by it and the procedure to be followed in relation to such meetings.

(c) The conditions which may be imposed and the procedure which may be followed in granting loans or entering into other arrangement by the Corporation.

(d) The duties and conduct of the officers and other employees of the Corporation.

(e) The establishment and maintenance of provident fund and other benefits funds for the officers and other employees of the Corporation; and

(f) Generally, the efficient conduct of the affairs of the Corporation.

(3) No regulations made under this Act shall have effect until they are published in the Official Gazette.”

In view of the submissions made by the learned counsel for respondent No.2 and from the perusal of correspondence, it shows that as

Para 11, Chapter 6, which lays down the age limit to 58 years and revision from 58 years to 60 years of GROUP-D employees cannot be made unless said amendment is made and incorporated in the Punjab Ex-Servicemen Corporation (Service) Regulations, 1993. Furthermore, the submissions made by the learned counsel for respondent No.2 have not been disputed by the learned counsel for the petitioner regarding 143rd Meeting conducted by the Board of Directors vide which the proposal regarding retirement age at 60 years was made and even the said aspect has been admitted in the pleadings. Accordingly, the prayer for continuation in the service in light of Rule 3.26(a)(ii) of Punjab Civil Services Rules is not tenable, unless and until the proposal approved by Board of Directors of respondent No.2 is incorporated by way of an amendment expressly or by necessary implication. Therefore, the prayer of the petitioner at this stage cannot be entertained being premature.

Consequently, the present petition is dismissed.

August 31, 2023
Gulati

(DEEPAK MANCHANDA)
JUDGE

Whether Reportable	:	Yes/No
Whether Speaking/Reasoned	:	Yes/No