HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CWP-24917-2023 (O&M)
Decided on 22.11.2023
****

Madan Gopal ... Petitioner

VS.

State of Haryana & Ors. ... Respondents
****

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL
****

Present: Mr. AS Singhmar, Advocate for the petitioner

Mr. BR Mahajan, Sr.Advocate with
Ms. Nikita Goel, Advocate for respondent-HAFED
****

Sandeep Moudgil, J.

The petitioner has filed the instant writ petition under Article 226 of the Constitution seeking to quash the impugned order dated 25.09.2023 (Annexure P12) vide which the petitioner has been sought to be retired from service on 30.11.2023 considering it to be age of superannuation at the age of 58 years instead of 30.11.2025 i.e. 60 years with a further direction to the respondents to allow the petitioner to continue in service till 30.11.2025 which is allegedly to be date of superannuation as per appointment letter dated 27.03.2001 (Annexure P1).

The petitioner was initially appointed as Cane Development Inspector (Group C) on 27.03.2001 in the erstwhile Sirsa Coop. Sugar Mills. Ltd., on regular basis. He was thereafter adjusted in Palwal Sugar Mills on 28.11.2006. Thereafter, the petitioner was given fresh appointment in HAFED vide order dated 23.06.2008 as per decision of the Board of Directors meeting held on 20.03.2008 specifically mentioning therein that the petitioner "will not be entitled to any benefit of past service" and "will be governed by the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988. However, the process for retirement of the petitioner w.e.f. 30.11.2023 was initiated prompting him to approach this Court.

Learned counsel for the petitioner contended that as per Clause 12 of the appointment letter dated 27.03.2001, the petitioner was to retire at the age of 60 years and not 58 years as mentioned in the impugned order dated 25.09.2023. He submitted that had the Sirsa Sugar Mill continued running or was the petitioner adjusted in other Sugar Mills, he would have retired at the age of 60 years and the Sirsa Sugar Mills went into losses on account of the actions or any faults not attributable to the petitioner and that's why the decision was taken by the department to adjust all the employees including the petitioner in other Sugar Mills in Haryana and as such the department is duty bound to fulfill all the conditions of appointment letter as well as other obligations towards the services of the petitioner.

It is vehemently contended that the action of the department is discriminatory as the employees who were adjusted in other Sugar Mills are being retired at the age of 60 years whereas the petitioner is being retired at the age of 58 years which is totally unfair on the part of department and moreover, no age of retirement was mentioned in the Fresh offer of appointment of the petitioner which gave the impression in the mind of petitioner that the age of retirement would be 60 years as mentioned in the original letter of appointment as well as in the offer of appointment issued to other employees who were adjusted in other sugar mills.

Written statement dated 21.11.2023 has been filed by the respondents No.1 to 3 through Braham Prakash, General Manager, HAFED Sugar Mill Assandh which is taken on record.

Mr. BR Mahajan, learned senior counsel assisted by Ms. Nikita Goel, Advocate submits that Rule 15 of the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988 coupled with Clause 7 of the offer of appointment (Annexure R-2/1) which provides for retirement at the age of 58 years and not at the age of 60 years as claimed by the petitioner. It is further averred that although the respondent-HAFED have their own statutory rules *ibid* however, the Haryana Civil Services (General Rules, 2016 are also applicable to the government employees in the State of Haryana which too provides the age of retirement as 58 years except for disabled employees.

Heard learned counsel for the parties and gone through the record.

Rule 15 of the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988 provides for retirement as under:-

> *"15. RETIREMENT*
> *a) Every employee shall retire from the service on the afternoon of the last day of the month in which he attains the age of 58 years.*
>
> *Provided that the age of retirement for class-IV employees shall be 60 years.*
>
> *Provided further that the employee, whose date of birth is the first of month, shall retire on the afternoon of the last day of the preceding month on attaining the age of 58 or 60 years, as the case may be.*

> *b) No employee shall be retained in service after the age of retirement except in exceptional circumstances with the sanction of the Board in Federation's interest, which must be recorded in writing subject to the approval of Registrar."*

As per clause 7 of the offer of appointment (Annexure R-2/1) issued by the respondent-HAFED also, the age of retirement of the petitioner is 58 years and not 60 years i.e. w.e.f. 30.11.2023 inasmuch as the petitioner's date of birth is 30.11.1965. Even in terms of Rule 143 of Haryana Civil Services (General) Rules, 2016 as applicable to all the Government employees including HAFED, the age of retirement is 58 years except for disabled employees, blind, group-D employees and judicial officers. The said Rule 143 *ibid* reads as under:-

> *"143. Retirement on superannuation.*
>
> *(1) Except as otherwise provided in these rules, every Government employee shall retire from service on afternoon of the last day of the month in which he attains the age of retirement prescribed for him or for the post held by him in substantive or officiating capacity, as the case may be. However, a Government employee whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the prescribed age. <u>The age of retirement on superannuation is fifty eight years for all groups of employees except the following for whom the same is sixty years</u> :-*
>
> *(i) Disabled employees having minimum degree of disability of 70% and above;*
>
> *(ii) Blind employees;*
>
> *(iii) Group 'D' employees; and*
>
> *(iv) Judicial Officers.*

No Government employee shall be retained in service after attaining the age of superannuation, except in public interest and in exceptional circumstances, without the approval of Council of Ministers."

On perusal of above and having regard to the submission on behalf of the petitioner, there is nothing shown in support of the argument that the petitioner was an employee falling within the exceptions of Rule 143 of HCS Rules to enable him to seek the benefit of retirement at the age of 60 years. Moreover, the appointment letter issued by erstwhile Sirsa Coop. Sugar Mills for determining the age of retirement cannot be the sole reason inasmuch, the appointment letter, prevailing rules, bye-laws adopted by the BOA meeting on 09.11.1993 of the current employer i.e. HAFED are to be read collectively which would be applicable and governable in the case of the petitioner.

This Court does not find any merit in the submissions raised by the petitioner in the present writ petition and as such, the same is dismissed without any order as to costs.

29.11.2023
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? *Yes/No*