253

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3039-2024 (O&M)
Date of Decision: 27.02.2024

Kulbir Singh

....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R.K. Arora, Advocate, for the petitioner.

Mr. B.R. Mahajan, Advocate General with
Mr. Samarth Sagar, Additional Advocate General, Haryana.

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<u>JASGURPREET SINGH PURI, J. (Oral)</u>

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 25.01.2024 (Annexure P-13) in respect of the petitioner whereby the process to retire the petitioner from service on 29.02.2024 has been ordered.

2. The present case as submitted by the learned counsel for the petitioner is that the petitioner was earlier working in the Sirsa Co-operative Sugar Mills Ltd., Panniwala Mota, District Sirsa and he was appointed vide Annexure P-1 on 03.11.2001. As per appointment letter when he was appointed in the Sirsa Co-operative Sugar Mills Ltd., there was specific a condition that he will retire at the age of 60 years unless earlier he is found not to be physically or mentally fit. Thereafter, the aforesaid Sugar Mill was

wound up and liquidation process started. Vide Annexure P-3, a policy decision was taken that the regular permanent employees of the Sugar Mill Sirsa will be adjusted in the other Co-operative Sugar Mills. The reason for the same was so that no prejudice is caused to them pertaining to their right of livelihood and as a policy decision, they were to be adjusted. Thereafter, the petitioner was appointed as Cane Development Inspector (hereinafter mentioned as CDI) vide Annexure P-10 dated 23.06.2008.

3. Learned counsel for the petitioner submitted that in the aforesaid appointment letter the earlier pay of the petitioner was protected as per rules and it was also so stated in the appointment letter that the services of the petitioner will be governed by the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988. In this way, the petitioner was appointed in pursuance of the aforesaid policy into the respondent-HAFED in the year 2008. He submitted that once a decision was taken vide Annexure P-3 that the regular employees of Sirsa Cooperative Sugar Mills are to be adjusted in the other Cooperative Sugar Mills, then the condition of his initial appointment letter Annexure P-1 where it was so specifically stated that the petitioner will retire at the age of 60 years since for the Sugar Mills the retirement age is 60 years now even if he has been appointed in the HAFED, the date of retirement of the petitioner should also be protected and he should retire at the age of 60 years and not at the age of 58 years. He also submitted that for the employees of HAFED the age of retirement is 58 years but for the employees of the Sugar Mills, the age of retirement is 60 years and his earlier condition of service should be protected once the pay of the petitioner stood protected and therefore a direction may be issued to the respondents not to retire the petitioner at the

age of 58 years which is on 29.02.2024.

4. On the other hand, Mr. B.R. Mahajan, learned Advocate General, Haryana has appeared on behalf of the respondents alongwith Mr. Samarth Sagar, learned Additional Advocate General, Haryana. It was so submitted by learned Advocate General, Haryana that at the time when the petitioner and some other employees were in two Sugar Mills i.e. Sirsa and Bhuna and the aforesaid Sugar Mills were under liquidation process and as a matter of gesture by the Government, a policy decision was taken that the regular employees are to be adjusted in other Sugar Mills etc. and thereafter vide Annexure P-10 the petitioner was freshly appointed to the post of CDI on 23.06.2008. While referring to the aforesaid letter of appointment Annexure P-10, he submitted that it has been so specifically provided in the appointment letter that he is offered fresh appointment to the post of CDI in the pay scale of Rs. 3750-5700 and as a matter of policy decision as well, the pay of the petitioner was protected since he had worked in one another Sugar Mill earlier. In the appointment letter, the petitioner was put on probation for a period of two years which was although later on waived off with respect to all the employees as a matter of policy decision. He further referred to para No. 7 of the appointment letter wherein it was so provided that the services will be governed by the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988 and as amended from time to time and even his seniority in the respective cadre will be fixed separately from the date of joining in HAFED as per earlier seniority fixed by the Cooperative Sugar Mills, Sirsa. He submitted that in this way the benefit of protection of pay and seniority etc. has already been granted to the petitioner way back in the year 2008 by way of the aforesaid

appointment letter Annexure P-10 but so far as the age of retirement is concerned, it has been so specifically provided in para No.7 that his services will be governed by the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988. He submitted that as per the HAFED Rules, the age of retirement is 58 years and since the petitioner has been freshly appointed as aforesaid, he will be governed by the aforesaid HAFED Rules and it cannot be said that the petitioner can be permitted to take the benefit of the earlier clause which was so incorporated when he was appointed in the Sirsa Sugar Mill which already stood wound up. He submitted that the mere fact that as a matter of policy decision the petitioner was to be adjusted in the different Sugar Mills etc. would not mean that all the clauses of the earlier appointment letter would automatically be extended. He submitted that the petitioner was bound by the conditions which were imposed by the appointment letter which was issued to the petitioner way back in the year 2008 when was firstly appointed and now after a period of 15 years the petitioner has filed the present petition when he is on the verge of retirement. He further submitted that even otherwise also once the petitioner has accepted the terms and conditions of the appointment letter vide Annexure P-10 and now after 15 years, he cannot now take a U-turn and state that the services of the petitioner will not be governed by the aforesaid Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988 and also submitted that apart from the above, the present petition is also highly belated and is also hit by the doctrine of laches and cannot be entertained.

5. I have heard the learned counsel for the parties.

6. The only short point involved in the present case is that as to

whether the petitioner was entitled for retirement at the age of 58 years or 60 years. When he was initially appointed in the Cooperative Sugar Mills, Sirsa vide Annexure P-1, there was an express condition that he will be retiring at the age of 60 years. At that point of time the petitioner was governed by the different set of rules which were governing the Cooperative Sugar Mills and the employees of a similar designation of the Cooperative Sugar Mills retired at the age of 60 years. However, the Cooperative Sugar Mills, Sirsa was wound up after the liquidation process was started and the Government as a matter of policy decision decided to adjust the regular employees in different departments. Consequent upon the same, a perusal of the appointment letter Annexure P-10 dated 23.06.2008 would show that it has been so specifically incorporated that the petitioner has been freshly appointed to the post of CDI and his pay has also been protected. It has also been specifically stated in condition No. 7 that he will be governed by the Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988 and as amended from time to time. As per the learned counsel for the parties when the aforesaid rules i.e. Haryana State Supply and Marketing Cooperative Service (Common Cadre) Rules, 1988 are to be applied, then the age of retirement of the petitioner comes out to be 58 years and not 60 years because all similarly situated employees as per the rules retire at the age of 58 years.

7. This Court is of the view that a mere condition imposed in the appointment letter Annexure P-1 when he was appointed in the Cooperate Sugar Mills, Sirsa cannot be deemed to be carried on when he is freshly appointed vide Annexure P-10. Even otherwise also the present petition is also hit by the doctrine of delay and laches since he has filed the present

petition when he is on the verge of his retirement and after a period of 15 years and he in principle accepted his whole appointment letter Annexure P-10 and now he is rather stating that he will not be bound by the rules by which he is governed, although the specific condition was incorporated that he will be bound by the rules under which retirement age is 58 years. The prayer of the petitioner is therefore misconceived and is devoid of any merit.

8. Consequently, the present petition is hereby dismissed.

27.02.2024 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No