

214-2



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 17.07.2024

1. CWP-1017-2003 (O&M)

Gurdial Singh ...Petitioner

Vs.

State of Haryana and others ...Respondents

2. CWP-19459-2002 (O&M)

Gurdial Singh Sehgal ...Petitioner

Vs.

State of Haryana and others ...Respondents

CORAM: HON’BLE MR. JUSTICE DEEPAK SIBAL
HON’BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vivek Singla, Advocate for the petitioner.
in CWP-1017-2003.

None for the petitioner in CWP-19459-2002.

Mr. Hitesh Pandit, Addl.A.G.Haryana.

DEEPAK MANCHANDA, J.

1. Vide this common judgement, the above mentioned writ petitions are being decided as the facts/issues involved therein are similar and for brevity, record/recital facts are being taken from CWP-1017-2003, titled as “Gurdial Singh Vs. State of Haryana and others”.

2. This petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing of the impugned orders dated 26.11.2002 and 27.11.2002 (Annexures P-3 and P-4), vide which the petitioner had been reverted and transferred. Also under challenge is the order dated 02.01.2003 (Annexure P-7), whereby the petitioner's pensionary benefits had been withheld.

3. The facts in brief emerging from the record are that petitioner superannuated as Assistant Superintendent Treasury on 30.11.2002. Though petitioner was promoted as Assistant Treasury Officer but since he could not qualify the departmental examination on the post of Assistant Treasury Officer, which promotion of his was conditional, vide order dated 24.11.2002, he was reverted from the post of Assistant Treasury Officer to Assistant Superintendent Treasuries and further vide order dated 27.11.2002 (Annexure P-4), was transferred from Raipur Rani to Fatehabad Treasury. Subsequently, the retiral benefits of the petitioner including pension and gratuity were also withheld. Hence being aggrieved against the said action, the petitioner filed these two petitions.

4. Vide order dated 23.01.2003, notice of motion was issued and respondent Nos.1 to 4 filed their written statement dated 08.05.2003, wherein a categorical stand was taken that the petitioner was promoted to the post of Assistant Treasury Officer 08.03.1999 and his services as Assistant Treasury Officer are governed by the Haryana Finance Department Treasuries (Group-B) Service Rules, 1980, where Rule 10(1) prescribes the period of probation for the direct recruited/promoted employees and Rule 12 of the said Rules describes to qualify the departmental exams within the probation period. It is

submitted by the respondents that petitioner could not qualify departmental exams as per the rules mentioned above, hence was not entitled to continue on the post of Assistant Treasury Officer so vide order dated 26.11.2002 was rightly reverted to the post of Assistant Superintendent (Treasury). The relevant rules are reproduced hereunder:-

“Rule 10 (1)

“Persons appointed to any post in the service shall remain on probation for a period of two years, if appointed by direct recruitment and one year, if appointed otherwise.

Provided that the total period of probation including extension if any, shall not exceed three years”

Rule 12 (1)

“Every member of the service, who has not already done so, shall pass such examination and under go such training with in the period of probation as may be prescribed by the Government.

Provided that the Government may exempt any candidate from passing the whole or any part of the departmental examination or may extend the period within which a candidate shall pass the examination.”

Rule 12.6

“If any member of the service, fails to pass the examination or to undergo the training within the period of probation or such period as may be prescribed he may be discharged from service if directly or reverted to his former post if recruited otherwise.”

5. Further, as per stand taken in written statement, all the retiral benefits including salary as prayed by the petitioner were released during the pendency of the writ petition. The leave encashment amounting to Rs.1,28,440/- alongwith salary for the month of November, 2002 amount to Rs.13,104/- had also been released and no other amount is pending with the respondent.

6. We have heard learned counsel for the petitioner.

7. Through this writ petition, petitioner has sought quashing of the

impugned orders dated 26.11.2002 and 27.11.2002 (Annexures P-3 and P-4), vide which the petitioner had been reverted and transferred as also the order dated 02.01.2003 (Annexure P-7) whereby payment of pensionary benefits were withheld.

8. In light of Rules 10(1) and 12(1) of Haryana Finance Department Treasury (Group B) Rules, 1980 since the petitioner was promoted to the post of Assistant Treasury Officer in the year 1999, and as per conditions was to complete the period of probation by 09.05.2000 and to qualify the Departmental exams as per rule, but the petitioner could not qualify the departmental exams, hence, was not entitled to continue on the post of Assistant Treasury Officer. Further, no other officer/official had been granted exemption from qualifying the departmental exam since 1997 in order to maintain efficiency in official working of treasuries. Hence, the petitioner also has no right of exemption from qualifying the departmental exam.

9. A bare perusal of the reply as well as annexures annexed with the present writ petition reveals that all the retiral benefits were duly released to the petitioner. Even the pensionary benefits were also ordered to be released and learned counsel for the petitioner had not disputed the said fact.

10. Moreover, this petition had been filed on 21.01.2003 whereas petitioner had already been retired on 30.11.2002 as mentioned in the petition which means 21 years have already been passed and with the efflux of time, the purpose of filing this writ petition has also been diminished.

11. Given the above discussion and in light of Rules referred by the respondents, the present writ petitions fail and are accordingly dismissed.

12. Since the main case is dismissed, pending application(s), if any, have also rendered infructuous.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

17.07.2024
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No