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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP No.18888 of 2024 (O&M)
Date of decision: 07.08.2024

Balkar Singh

....Petitioner

Versus

Punjab State Agricultural Marketing Board and another

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Puneet Gupta, Advocate
for the petitioner.

Mr. Rajesh Sehgal, Addl. A.G., Punjab
for the respondents.

NAMIT KUMAR J. (Oral)

1. Prayer in this writ petition filed by the petitioner under Article 226 of the Constitution of India, is for issuance of a writ in the nature of certiorari, for quashing the impugned order dated 20.05.2024 (Annexure P-10), passed by the respondents, whereby the claim of the petitioner to continue in service upto the age of 60 years, has been rejected. Alternatively, a writ of mandamus has been sought for directing the respondents to grant 18% interest per annum on the delayed retiral dues of the petitioner.
2. The petitioner is claiming his date of retirement at the age of 60 years in terms of Rule 3.27 of the Punjab Civil Services Rules, Volume I, which reads as under:-

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“3.27. Notwithstanding anything contained in rule 3.26, the date of retirement of a Government employee (other than a Group D employee), who is suffering from any of the disabilities viz., blindness or low vision, hearing impairment, locomotor disability or cerebral palsy, shall be the date on which he attains the age of 60 years instead of 58 years:

Provided that whenever an appointing authority has reason to believe that such a Government employee is mentally or physically unsuitable to discharge the duties of the post held by him, it shall require him to appear before a Civil Surgeon for a medical check-up and his continuance in the Government service beyond the age of 58 years, shall be subject to being declared fit on such medical check-up.

Explanation 1.— (i) The term “disabilities” used in this rule shall have the same meaning as defined in Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Central Act 1 of 1996); and

(ii) The expression “a Government employee, who is suffering from any of the disabilities” means a Government employee who is suffering from not less than forty per cent of any of the disabilities mentioned in this rule as certified by the medical authority specified by the Government.

Explanation 2.—(i) A Government employee whose date of birth falls on any day of month other than the first of that month, shall on attaining the age of 60 years, retire on the last day of that month, which will be a working day; and (ii) A Government employee whose date of birth is the first of the month shall retire on the afternoon of the last day of the preceding month.”

3. The petitioner stood retired from service on attaining the age of superannuation on 31.10.2012 and for claiming continuation in service upto the age of 60 years, being handicapped, the petitioner had earlier filed a petition i.e. CWP No.21490 of 2012, titled as “Balkar Singh vs State of Punjab and others”, which was admitted on

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15.03.2013 and thereafter, with the passing of the impugned order dated 20.05.2024 (Annexure P-10), the same was withdrawn by the petitioner by filing an application i.e. CM No.10602-CWP of 2024 in CWP No.21490 of 2012, and the petitioner was permitted to withdraw the said petition with liberty to file a fresh one impugning the order dated 20.05.2024 and thus, the instant petition has been filed impugning the order dated 20.05.2024 (Annexure P-10).

4. The claim of the petitioner for continuation in service upto the age of 60 years, being handicapped has been rejected by respondent No.2 vide impugned order dated 20.05.2024 (Annexure P-10), by giving the following reasoning:-

“As per the office records, the petitioner who is a retired employee namely Balkar Singh was appointed as Auction Recorder Market Committee Sultanpur Lodhi on the basis of seniority-cum-merit on unreserved points on 03-10-1978 as per roster register. This employee was further promoted on the basis of seniority-cum-merit as Mandi Supervisor on the unreserved point on 01-06-2001. This employee was retired on 31-10-2012 after completing 58 years as per instructions of Punjab Government/Mandi Board. In total 34 years and 28 days have been served by the employee in the Market Committee.

According to the office records, neither any medical certificate nor any application for appointment/promotion on the basis of disability was ever submitted to the Market Committee by this employee. This employee was appointed on the basis of seniority-cum-merit and not in handicap quota. Thus this department has never received any application/representation qua disability by the employee

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through out period of 34 years and 28 days while serving in the Market Committee.

According to the office records, this employee never gave any medical disability certificate and no application letter has been given in this regard from the date of retirement on 31-10-2012 till date.

It is clear in the rule 3.27 that the disabled employee has to get a medical fitness check up from the civil surgeon for 2 years extension after 58 years. Whereas due to non-submission of the request by the employee and due to non-availability of disabled certificate during service and the promotion of this employee has not been done on the basis of handicap quota. Therefore, according to the said rule 3.27 and office records, due to non-submission of the request by the employee, the request of the employee of extension of service for two years cannot be considered.”

5. Since the petitioner was neither appointed against a vacancy meant for handicapped category nor he was promoted to the post of Mandi Supervisor against reserved vacancy, belonging to handicapped category, and the fact that no medical disability certificate has been submitted by the petitioner to the department, therefore, the petitioner cannot claim continuation in service upto the age of 60 years in terms of Rule 3.27 of the Punjab Civil Services Rules, Volume I.

6. Consequently, the said claim of the petitioner is rejected.

7. At this stage, learned counsel for the petitioner submits that although all the retiral benefits of the petitioner have been released, however, the same have been released after a considerable delay and since the retiral benefits of the petitioner have been withheld without

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any justifiable reasons, therefore, he is entitled for grant of interest on the delayed payment of retiral benefits in view of the law laid down by a Full Bench of this Court in *A.S. Randhawa vs. State of Punjab and others : 1997(3) S.C.T. 468* and *J.S. Cheema vs. State of Haryana : 2014(13) RCR (Civil) 355*.

8. A perusal of the file shows that for claiming the said relief, the petitioner has never approached the concerned authorities.

9. Faced with this situation, learned counsel for the petitioner submits that the present petition may be disposed of with liberty to the petitioner to file a detailed representation with respondent No.2 for grant of interest on the delayed payment of retiral dues and the petitioner would be satisfied, if the said representation is decided by respondent No.2, in a time bound manner.

10. If any such representation is submitted by the petitioner within a period of one month, claiming interest on the retiral dues of the petitioner, the same shall be considered and disposed of by respondent No.2 by passing a speaking order within a period of 03 months from the date of filing the said representation. Necessary benefits, if any, found due to the petitioner shall be released expeditiously, preferably within a period of 01 month thereafter.

(NAMIT KUMAR)
JUDGE

07.08.2024

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No