

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(253)

CWP-29050-2022

Date of decision: - 23.04.2024

Balwinder Singh**....Petitioner****Versus****State of Punjab and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Dhiraj Chawla, Advocate
for the petitioner.

Ms. Neha Sonawane, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. Present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 27.05.2022 (Annexure P-5) whereby the claim of the petitioner for grant of proportionate pension has been rejected being in contravention to Rule 6.16A(2) of the Punjab Civil Services Rules, Volume-2, Chapter VI.

2. Learned counsel for the petitioner has submitted that the petitioner was appointed on the post of Canal Patwari in the physically challenged category vide appointment letter dated 20.03.2002 and the petitioner joined the post on 01.04.2002 and was thereafter promoted to the post of Assistant Revenue Clerk in the year 2007 and had further been promoted to the post of Revenue Clerk in the year 2013 and remained posted at Bathinda Canal Division Bathinda. It is further submitted that

the petitioner had sought voluntary retirement from service vide letter dated 12.07.2018 (Annexure P-1) along with a demand draft of Rs.1,53,033/- in lieu of three months notice and the authorities vide letter dated 20.02.2020 (Annexure P-2) had accepted the said application and permitted the petitioner to retire voluntarily w.e.f. 12.07.2018. It is stated that it is not in dispute that the petitioner had completed more than 16 years of service on the date of his retirement and as per Rule 6.16A(2) of the Punjab Civil Services Rules, Volume-2, Chapter VI, the petitioner was entitled to proportionate pension. For the said purpose, learned counsel for the petitioner has made a specific reference to the said rule, which is reproduced herein below: -

*“SECTION III.–REVISED PENSION RULES
A–GRATUITY AND PENSION*

6.16. A Government employee retiring in accordance with the provisions of these rules before completing the qualifying service of ten years shall not be entitled to any pension but he shall be entitled to a service gratuity calculated at the uniform rate of half month's emoluments for every completed six monthly period of service.

6.16-A. (1) Full pension to a Government employee, who retires on or after the 1st day of December, 2011, in accordance with the provisions of these rules, shall be admissible after rendering a qualifying service of twenty-five years and shall be calculated at the rate of fifty per cent of emoluments or average emoluments, whichever is more beneficial to him:

Provided that the pension so calculated shall, in no case be, less than three thousand and five hundred rupees per month.

(2) In case the qualifying service of a Government employee is ten years or more but less than twenty-five years, the amount of pension shall be such proportion of the maximum pension admissible under sub-rule (1) as the qualifying service rendered by him bears to the maximum qualifying service of twenty-five years.”

3. Learned counsel for the petitioner has argued that once the application for voluntary retirement of the petitioner had been accepted and the duration of service of the petitioner was more than 10 years and less than 25 years, on that ground also, the petitioner was entitled to a proportion of the maximum pension payable. It is further argued that till date the said proportionate pension has not been released to the petitioner on account of which the petitioner is facing great financial difficulty. It is stated that vide the impugned order (Annexure P-5), the Senior Accounts Officer has observed that the matter is required to be re-examined and while passing the said order, the Senior Accounts Officer has not taken into consideration the provisions of Rule 6.16A(2) (supra), inasmuch as, even in case the authorities were of the opinion that the petitioner did not have 20 years of qualifying service or had not attained the age of 50 years, then also, the proportionate pension as per Rule 6.16A (supra) was required to be released to the petitioner. In support of his arguments, learned counsel for the petitioner has relied upon a judgment of this Court in case titled as “***Geeta Devi Vs. State of Punjab***” ***reported as 2014(13) SCT 770***. It is submitted that at any rate, since the matter has not been re-examined after the passing of the impugned order by the Senior Accounts Officer, the competent authority of respondent No.1-State is required to finally consider the prayer of the petitioner and while doing so, the provisions of Rule 6.16A (supra) and the law laid down in the above-said judgment be also taken into consideration.

4. Learned State counsel has submitted that since, as per the impugned order, the matter was to be re-examined, thus, the competent

authority of respondent No.1-State would take a final decision on the same within a period of two months from today and would also consider the provisions of Rule 6.16A (supra) while re-examining the matter.

5. Keeping in view the above-said facts and circumstances, the present writ petition is disposed of with a direction to competent authority of respondent No.1-State to consider the prayer of the petitioner for the grant of proportionate pension within a period of two months from today and while considering the same, the respondent authorities would take into consideration the provisions of Rule 6.16A of the Punjab Civil Services Rules, Volume-2, Chapter VI as well as the judgment relied upon the learned counsel for the petitioner in ***Geeta Devi's case (supra)*** and also the fact that the petitioner has rendered more than 16 years of service and is also physically handicapped. After considering the above-mentioned, in case the petitioner is found entitled, necessary relief be released to him immediately without delay and in case the petitioner is not found entitled to the relief or some part of the same, then, a speaking order rejecting the same be passed within the aforesaid period of two months.

6. It is made clear that the plea of the petitioner with respect to payment of interest is kept open, as the same would be dependent upon the decision taken by the respondent-authorities and its legality.

April 23, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No