



CWP-8881-2019

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

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CWP-8881-2019 (O & M)
Date of decision: 27.01.2025

Ravi Raman

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition seeks to quash the order dated 08.10.2015 (Annexure P-9), rejecting the notice for premature retirement, along with three months' salary, submitted via letter dated 18.11.2014 (Annexure P-7), after a delay of 11 months.

2. The petitioner, employed as a Medical Laboratory Technician, Grade-II, had initially been granted a five-year leave under the Self-Occupation Leave Scheme of the Government of Punjab and, upon rejoining after the completion of this period, submitted a notice for premature retirement on 18.11.2014 (Annexure P-7) along with a deposit of three months' salary amounting to ₹1,06,164/-, which was admittedly encashed on 04.12.2014. His request for voluntary retirement, affirming the absence of any pending matters against him and the completion of 20 years of qualifying service, was forwarded by Respondent No.3-Principal to Respondent No.2-Director but came to be ultimately rejected on



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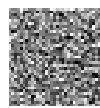
08.10.2015 based on Instructions dated 12.05.2015, relating to those absent from duty, which was not the case in hand, inasmuch as he continued to serve even after submission of the notice on 18.11.2014, Annexure P-7, till 24.11.2014, would not apply. Subsequently, in a charge sheet issued to him on 14.03.2016, he was treated as absent from duty since 18.11.2014 and considered as deemed resignation from the date of his absence, not even been provided as a punishment under the rules was in view of **Vijay Singh vs. State of UP**¹, not impermissible.

3. Hon'ble the Supreme Court while dealing with the issue of automatic retirement had in the case of **State of Haryana vs. SK Singhal**² observed and held that where the appointing authority does not refuse the request for retirement, it shall become effective from the date of expiry of the said period, specified in sub-rule.

4. In similar facts as involved in the present case, the Division Bench in **State of Punjab and others vs. Dr. Bhushan Lal Malhotra**, LPA-899-2010, vide judgment dated 03.08.2010, against which no challenge was made, whilst considering the Rule 3 of the Punjab Civil Services (Premature Retirement) Rules, 1975, held that upon no order having been passed regarding the request for premature retirement, the employee would be deemed to have retired and as such, on that premise entitled to pensionary benefits, which learned State counsel despite best efforts has been unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law. Relevant paras of the same read thus:-

¹ 2012 (3) SCT 390

² 1999 (2) SCT 678



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“In that regard the Division Bench has placed reliance on a Full Bench judgment of this Court in the case of Kesar Chand v. State of Punjab. 1988 (2) PLR 23, declaring Rule 3.17 of the Rules as ultra vires which exclude the period of work charge and ad hoc service from the definition of expression 'qualifying service'. In the present case, it is conceded position that the writ petitioner-respondent was appointed as Medical Officer on short term basis vide order dated 26.5.1987. He joined the service on 11.9.1987 and continued to work as such up to 25.6.1992. On 31.1.1995, his services were regularised w.e.f 26.6.1992. He sought voluntary retirement on 14.10.2009 in terms Rule 3(3) of the Rules and requested that he may be retired we.f. 15.1.2010. By counting the period of short term service by the writ petitioner no doubt is left that he has completed more than 20 years of service at the time when he sought voluntary retirement and the judgment in the case of Dr. Anil Kumar Saluja (supra) is fully applicable.

So far as the plea of interpretation of Rule 3 of the Rules is concerned, it would first be necessary to examine Rule 3(3) of the Rules, which is applicable to the facts of the present case and the same reads as under:-

“3(3)(a) At any time after any employee has completed twenty years of qualifying service, he may, by giving notice of not less than three months in writing to the appropriate authority retire from service.

(b) The notice of voluntary retirement given under this sub-rule shall require acceptance by the appropriate authority.

(c) Where the appropriate authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.”

A perusal of the aforesaid Rule shows that an employee after completing 20 years of qualifying service may serve a notice of not less than three months to the appropriate authority expressing his intention to retire from service on the expiry of the three months. According to Clause (b), the notice of retirement given under Clause (a) requires acceptance by the appropriate authority, which is mandatory. A perusal of the Clause (c) shows that if the appropriate authority allows three months' period to lapse then the retirement shall become effective from the date of expiry of the said period. The question which arises for consideration is as to



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the cases in which the appellant-State of Punjab could reject the request of an employee who has completed 20 years of service. However, there are no guidelines provided in the Rules. The expression 'public interest' which figures in Rule 3.1(a), is missing from Rule 3(3). Rule 3.1(a) deals with the cases of premature retirement arising at the State Government with a right to retire an employee prematurely in larger public interest. Those employees who are corrupt, inefficient or otherwise dead wood could be shown the door because it would serve a larger public interest. However, such an expression is missing when we read Rule 3(3), which gives a right to the employee to seek voluntary retirement after 20 years of service. The question then is in which cases the State Government could refuse the request for voluntary retirement. One category of cases which may justify refusal is where departmental proceedings for infliction of major penalty might be pending because an employee may not be permitted to get away with misconduct embezzlement and misappropriation. Therefore, the argument of Mr. Sehgal, learned State counsel that notice of voluntary retirement requires acceptance by the appropriate authority have to be construed in the aforesaid fashion. In a given case of alleged misconduct, the authority may be justified in rejecting the request to the pre-mature retirement but not on the ground that there is scarcity of a particular class of employees. We cannot accept the contention that requirement of permission in the Rule is mandatory particularly when Clause (c) of Rule 3 says that if appropriate authority has not refused the permission for retirement before the expiry of the 90 days period then the retirement become effective from the date of expiry of the said period, Clause (c), in fact, takes away mandatory character of the Rule. Therefore, the argument that the State can put up any ground for rejecting the prayer of an employee does not commend itself to us.

For the reasons aforementioned, the appeal fails and the same is dismissed.”

5. This Court in **Dr. Anil Dewan vs. State through Principal Secretary, Health and Family Welfare Department Punjab and**

“(6) The State has framed pre-mature rules, namely, the Punjab Civil Services (Premature Retirement) Rules, 1975 (hereafter referred to as "the Rules"). Rule 3 of the Rules deals with the pre-mature retirement. Rule 3(1)(a) of the Rules empowers the authority to prematurely retire a public servant on completion of 20 years of qualifying service or till he attains 50 years of age after giving three months prior notice in writing. Rule 3(3)(a) entitles an employee who has completed 20 years of qualifying service to seek retirement from service by giving not less than three months notice in writing to the appropriate authority subject to conditions stipulated in rule 3(3)(c) of the rules. Rules 3(3)(a), (b) and (c) of the rules are reproduced as follows-

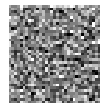
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(8) Even though Rule 3(3)(b) requires the acceptance of the notice of voluntary retirement by the appropriate authority, however, Rule 3 (3)(c) of the rules provides that where the appropriate authority does not refuse to grant permission for retirement before the expiry of notice the retirement shall become effective from the date of expiry of period of notice.

(9) The petitioner served a notice for premature retirement to the respondents on 5th July, 2007 and the same has been rejected on 19th March, 2008 i.e. after the expiry of period of notice. From the conjoint reading of Rule 3 (3)(a), (b) and (c) of the rules, the only inference that can be drawn is that where the request for voluntary retirement is not rejected within the period of notice, it is deemed to be accepted. Rejection after expiry of period of notice is of no consequence. There is no prohibition in the rules to seek voluntary retirement except where the employee is under disciplinary proceedings or some enquiry is pending against him. In the present case, admittedly, no disciplinary proceedings or enquiry was pending against the petitioner when he applied for voluntary retirement till the time of expiry of notice. By virtue of Rule 3(3)(c) of the rules, the petitioner is deemed to have retired on expiry of period of notice.

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(14) In view of the above factual and legal position, these petitions are allowed. The



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petitioners are deemed to have retired from service on voluntary retirement after the expiry of period of notice. Needless to say, the petitioners shall be entitlee to all service/retiral benefit on such retirement. No costs.”

6. The petition is disposed of in terms of **Dr. Bhushan Lal Malhotra** (supra).

27.01.2025
parveen kumar

(**AMAN CHAUDHARY**)
JUDGE

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