2025:PHHC:052350

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CWP-28169-2022

Date of Decision: 24.04.2025

Sukhpal Singh ......Petitioner(s)

Versus

State of Punjab and others ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vijay Rana, Advocate,
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

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JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 and 227 of the Constitution of India is seeking setting aside of order dated 14.09.2022 (Annexure P-6) whereby Director General of Police, Ludhiana ordered to prematurely retire him under Rule 3 of The Punjab Civil Services (Premature Retirement) Rules, 1975 (in short '1975 Rules').

2. The petitioner joined Punjab Police as Constable on 03.02.1992. He was assigned local rank of Assistant Sub Inspector on 28.07.2019. He came to be implicated in FIR No.21 dated 15.01.2020 under Sections 307, 506 IPC and under Sections 25/27/54/59 of the Arms Act, 1959, Police Station Division No.7, Ludhiana. He was arrested in the said FIR. On 16.01.2020, the Commissioner of Police, Ludhiana issued him notice of premature retirement in terms of Rule 3 of 1975 Rules. The petitioner at that point of time was in judicial custody, thus, he

did not receive notice and consequently could not respond. The respondent by impugned order dated 16.04.2020 prematurely retired him. He unsuccessfully preferred appeal before Appellate Authority as well as revision before Revisionary Authority.

3. Mr. Vijay Rana, learned counsel for the petitioner submits that petitioner was in judicial custody on 16.04.2020 and it is conceded fact that notice of premature retirement was never served upon him. The respondent passed impugned order in a mechanical manner. The impugned order has been passed in gross violation of principles of natural justice. It is unreasoned and non-speaking order. The Appellate as well as Revisionary Authority also mechanically dismissed his petitions.

4. *Per contra,* Mr. Aman Dhir, DAG, Punjab submits that if notice is not served upon the Officer, he is entitled to three months' salary. The petitioner was having very bad service record, thus, under compelled circumstances he was prematurely retired.

5. I have heard the arguments and perused the record.

6. From the perusal of record, it is evident that petitioner was prematurely retired in terms of Rule 3 of 1975 Rules. The said rule is reproduced as below:-

> ***"3. Premature Retirement:***
>
> *(1) (a) The appropriate authority shall, if it is of the opinion that it is in public interest to do so, have the absolute right, by giving an employee prior notice in writing, to retire that employee on the date on which he completes twenty five*

years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice.

(b) The period of such notice shall not be less than three months:

Provided that where at least three months' notice is not given or notice for a period less than three months is given, the employee shall be entitled to claim a sum equivalent to the amount of his pay and allowances, at the same rates at which he was drawing them immediately before the date of retirement, for a period of three months or. as the case may be, for the period by which such notice falls short of three months.

(2) Any Government employee may, after giving at least three months previous notice in writing to the appropriate authority retire from service on the date on which he completes twenty-five years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice:

Provided that no employee under suspension shall retire from service except with the specific approval of the appropriate authority.

(3) (a) At any time after an 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.

(4) The employee, who has elected to retire under sub-rule (2) or sub-rule (3) and has given the necessary notice to that effect to the appropriate authority, shall be precluded from withdrawing his notice except with the specific approval of the appropriate authority.

Provided that the request for withdrawal shall be made before the intended date of his retirement.

***Note 1**:- An employee may make a request, in writing, to the appropriate authority to accept notice of less than three months giving reasons therefore and such a request for the curtailment of the period of notice shall be considered on merit and if the appropriate authority is satisfied that such curtailment will not cause any administrative inconvenience it may relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before the expiry of the notice period of three months."*

***Note 2**:- If an employee retires under sub-rule (2) or (3) above while he is on leave not due, without returning to duty, the retirement shall take effect from the date of commencement of the leave not due and the leave salary paid in respect of such leave shall be recovered as provided in rule 8.119 (d) of the Punjab Civil Services Rules, Volume 1, Part 1.*

***Note 3**:- In computing the notice period of three months referred to in rule 3, the date of service of the notice and the date of its expiry shall be excluded."*

7. From the perusal of above quoted Rule, it is evident that appropriate authority, if is of the opinion that it is in the public interest, may order to prematurely retire any officer. The following attributes are required to be complied with before passing order of premature retirement:-

(i) the order should be passed by appropriate authority;

(ii) the authority must be of the opinion that it is in the public interest to do so;

(iii) the employee should be given prior notice in writing;

(iv) the employee must have completed 25 years of qualifying service or attained 55 years of age and

(v) in the absence of 3 months' notice, employee would be entitled to 3 months' salary.

8. In the case in hand, respondent issued show cause notice which was not concededly served upon the petitioner. In the notice, service record of the petitioner was duly considered. It was found that out of his 27 years and 11 months service, his 10 years' service was forfeited. He was awarded 4 major punishments and there are 17 bad entries. He remained absent from duty on 793 days. He is facing criminal proceedings under Section 307 IPC. Considering his service record, the competent authority issued notice which was followed by impugned order. The petitioner is claiming that in the impugned order respondent did not mention reasons and was bound to mention that it is in the public interest.

Indubitably, the factum of public interest was not mentioned in the final order, however, in the notice it was duly mentioned that it is in the interest of Police Force, State Government as well as public interest to prematurely retire him. His entire service record was considered. The power to premature retire is an absolute right of appropriate authority. The petitioner by the date of passing impugned order had already completed 25 years of service. Thus, it is evident that respondent complied with all the attributes of Rule 3 of 1975 Rules except service of 3 months' notice. The petitioner is entitled to salary of 3 months in the absence of notice.

9. The petitioner preferred appeal as well as revision before higher authorities though neither appeal nor revision was maintainable because Rule 16.29 and Rule 16.30 do not permit appeal/revision against order of premature retirement under Rule 3 of 1975 Rules.

10. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly dismissed. However, petitioner is entitled to 3 months' salary which would be paid by respondent within 2 months from today. It is made clear that if whole or part of salary is already paid, it would be taken care of.

24.04.2025 (JAGMOHAN BANSAL)

shivani JUDGE

Whether reasoned/speaking Yes

Whether reportable Yes