

**CWP-10385-2000**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-10385-2000****Reserved on: 30.01.2026****Pronounced on: 27.04.2026****Uploaded on: 27.04.2026****MALKIAT SINGH****-PETITIONER****V/S****STATE OF PUNJAB AND OTHERS****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Kanwaljit Singh, Sr. Advocate, with
Mr. Veer Imaan Singh Gill, Advocate,
Mr. Jashanpreet Singh, Advocate, and
Mr. Gagandeep Singh, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

KULDEEP TIWARI, J.

1. Through the instant writ petition, the petitioner assails the order dated 28.04.2000/16.05.2000 rejecting his request for voluntary retirement, besides the order dated 19/21.03.2002 removing him from service. The challenge to the impugned orders is founded principally on Rule 3 of the Punjab Civil Services (Premature Retirement) Rules, 1975 (hereinafter referred to as "the Rules of 1975").

2. Assailing the impugned orders, learned senior counsel for the petitioner submits that the petitioner initially submitted an application dated 28.01.2000 to the respondent-department, giving three months' notice for voluntary retirement w.e.f. 30.04.2000 under the Rules of 1975.

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Subsequently, he submitted another application dated 23.02.2000, giving 24 hours' notice for voluntary retirement. It is contended that neither of the applications was rejected by the respondent-department within the stipulated period and, therefore, by virtue of the deeming provision attached in Rule 3 of the Rules of 1975, the petitioner's request for voluntary retirement is deemed to have been accepted. Consequently, for all intents and purposes, the petitioner stood voluntarily retired w.e.f. 30.04.2000. Notwithstanding the same, the respondent-department issued a charge sheet to the petitioner under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 (hereinafter referred to as "the Rules of 1970"), followed by an *ex parte* inquiry, culminating in the impugned order of removal from service.

3. Learned senior counsel further contends that the order dated 28.04.2000, whereby both the petitioner's applications for voluntary retirement are purported to have been rejected, is ante-dated, inasmuch as the same was endorsed to the petitioner only after a delay of approximately 18 days, i.e. on 16.05.2000. It is thus submitted that the said rejection order was subsequently created in order to defeat the petitioner's right, who had already stood voluntarily retired upon the expiry of the notice period on 30.04.2000.

4. *Per contra*, learned State counsel submits that there is not even a scintilla of material on record to substantiate the petitioner's allegation that the rejection order dated 28.04.2000 is ante-dated. It is further submitted that the petitioner had remained absent from duty for over two years and, upon being served with the charge sheet, sought to circumvent

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the disciplinary proceedings by resorting to the stratagem of voluntary retirement, which request was rightly declined. It is contended that only upon the conclusion of a duly conducted departmental inquiry, the petitioner was removed from service. Accordingly, it is urged that the instant writ petition, being devoid of merit, deserves to be dismissed.

5. Before embarking upon the process of evaluating the rival submissions, gauging the legality of the impugned orders and penning down the resultant verdict, it is deemed imperative to make a swift survey of the factual matrix.

6. The petitioner joined the respondent- Irrigation Department as a Sectional Officer (subsequently re-designated as Junior Engineer) on 19.09.1976 on a regular basis and was confirmed as Junior Engineer w.e.f. 08.04.1991 vide notification dated 30.05.1991. He applied earned leave (Ex-India leave) for a period of 151 days w.e.f. 16.06.1997 to 13.11.1997 for visiting the United States of America to meet his family members and relatives, which was sanctioned by the respondent No.2 on 23.06.1997. Accordingly, he proceeded on leave w.e.f. 01.08.1997, the duration whereof had to expire on 29.12.1997. Upon expiry of the sanctioned leave period, the petitioner failed to resume duty. Instead, he sought half-pay leave vide telegram dated 03.01.1998, which was not granted, as it was not supported by any medical certificate. Despite the same, the petitioner did not join duty and continued to remain absent for nearly two years. He ultimately submitted three months' notice period application dated 28.01.2000 seeking voluntary retirement w.e.f. 30.04.2000 under the Rules of 1975.

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7. It is noteworthy that during the interregnum, i.e. from 01.01.1998, when the petitioner was required to resume duty, till 28.01.2000, when he sought voluntary retirement, the respondent-department issued repeated communications directing him to report for duty, however, the petitioner failed to comply.

8. The petitioner's initial application for voluntary retirement was followed by another application dated 23.02.2000 seeking voluntary retirement on 24 hours' notice. The said requests were not accepted, and instead, disciplinary proceedings were initiated against the petitioner by issuance of a charge sheet under Rule 8 of the Rules of 1970 on account of his prolonged unauthorized absence. As the respondent-department was unable to effect service of the charge sheet upon the petitioner, a public notice dated 22.11.2000 was published in the newspapers, calling upon him to join duty within 30 days and to receive the charge sheet. Despite the same, the petitioner neither reported for duty nor responded. Consequently, an Inquiry Officer, namely the Director, Inspection and Quality Control, SYL Canal, Chandigarh, was appointed to conduct the inquiry. The Inquiry Officer submitted his report dated 03.09.2001, holding the charges to be proved and recommending imposition of appropriate penalty under the Rules of 1970. Thereafter, a further public notice dated 07.11.2001 was issued, calling upon the petitioner to receive the inquiry report and submit his explanation within 30 days, failing which appropriate action would be taken. The petitioner, however, failed to respond, which ultimately culminated in the passing of the impugned order removing him from

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service. In this way, pained by the impugned orders, the petitioner has knocked on the doors of this Court.

9. Now, at this juncture, it becomes imperative to make a survey of Rule 3 of the Rules of 1975, which forms the fulcrum of the petitioner's challenge to the impugned orders. Rule 3 is extracted hereunder: -

“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 fifteen years or twenty years or twenty five years or thirty years or thirty five years, as the case may be, 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



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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.”

10. Sub-rule (2) of Rule 3 provides that a 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 25 years of qualifying service or attains the age of 50 years, or on any date thereafter to be specified in the notice. However, the proviso appended thereto stipulates that no employee under suspension shall retire from service except with the specific approval of the appropriate authority.

11. The Punjab Government, vide notification dated 29.11.1979 (effective from 07.06.1978), inserted sub-rule 3(a) in Rule 3 of the Rules of 1975. The said provision stipulates that at any time after completion of 20 years of qualifying service, an employee may retire from service by giving not less than three months' notice in writing to the appropriate authority. However, sub-rule 3(b) of Rule 3 unequivocally mandates that notice of voluntary retirement given under this sub-rule shall require acceptance by

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the appropriate authority. Further, sub-rule 3(c) incorporates a deeming provision to the effect that where the appropriate authority does not refuse permission for retirement before expiry of the notice period, the retirement shall take effect from the date of such expiry.

12. In the present case, the petitioner initially submitted an application dated 28.01.2000, giving three months' notice for voluntary retirement w.e.f. 30.04.2000 under the Rules of 1975, followed by a subsequent application dated 23.02.2000 seeking voluntary retirement on 24 hours' notice. However, both the applications were rejected by the Chief Engineer/Drainage, Irrigation Department, Punjab, vide order dated 28.04.2000. Consequently, the said applications lose their legal efficacy. The contention advanced on behalf of the petitioner that the rejection order is ante-dated is devoid of substance in the absence of any corroborative material on record. The petitioner was under a legal obligation to place cogent evidence on record in support of the plea that the order was ante-dated, which he has failed to do. The mere fact that the rejection order dated 28.04.2000 was endorsed to the petitioner on 16.05.2000 does not, *ipso facto*, lead to the inference that the same was ante-dated. It is also of considerable significance that the petitioner had remained unauthorizedly absent from duty for more than two years prior to submitting the application for voluntary retirement, despite being fully aware that his request for extension of leave had already been declined by the respondent-department.

13. Sub-rule 3(b) of Rule 3 assumes crucial significance in the facts of the present case. According to it, the notice of voluntary retirement

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submitted by the petitioner required acceptance by the appropriate authority, however, the same was not accepted and was, in fact, expressly rejected. Consequently, the petitioner's claim that he stood voluntarily retired from service w.e.f. 30.04.2000 on the basis of his three months' notice is untenable and is accordingly rejected.

14. Learned senior counsel for the petitioner has not advanced any submissions assailing the legality of the impugned order of removal from service. Rather, the principal thrust of his arguments is that the petitioner had already stood voluntarily retired w.e.f. 30.04.2000 and, therefore, neither could a charge-sheet have been served upon him nor could any disciplinary proceedings have been initiated against him. This contention has already been considered and rejected hereinabove. Consequently, the **impugned orders are upheld.**

15. In aftermath, the instant writ petition, being devoid of merit, is accordingly **dismissed.**

April 27, 2026
devinder

(KULDEEP TIWARI)
JUDGE

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