IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

213 **CWP-11219-2015 (O&M)**
Date of decision : 13.05.2026

HARJIT SINGH AND ANR

..... Petitioners

VERSUS

STATE OF PUNJAB AND ORS

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

***

Present :- Mr. Manu K. Bhandari, Advocate with
Mr. Arjun Sawhni and Mr. Rohit Kataria, Advocates
for the petitioners.

Mr. Amarpreet Singh Bains, AAG, Punjab.

***

Deepinder Singh Nalwa, J. (Oral)

1. In the present writ petition, the petitioners have challenged the order dated 02.04.2007 (Annexure P-5), whereby the claim of the petitioners for grant of pensionary benefits has been rejected.

2. Brief facts of the case are that the petitioners were appointed on the post of Constable in the Police Department in the State of Punjab in the year 1981. It transpires that the petitioners with another Constable Parminder Singh (since deceased) remained absent from duty while they were required to watch over a prisoner who was convicted in murder case. In light of the aforesaid absence from duty, departmental proceedings were initiated against the petitioners and Constable Parminder Singh. Charge sheets were issued to the petitioners. The charge against the petitioners was that they remained absent without permission, which amounts to gross act of

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misconduct. Petitioners duly filed reply to the charge sheet. The replies filed by the petitioners to the charge sheet were not found to be creditworthy. The charges stood proved by the Inquiry Officer. The Punishing Authority accepted the finding recorded by Inquiry Officer and dismissed the petitioners from service vide order dated 21.01.1985 (Annexure P-1).

3. Aggrieved against the order of dismissal dated 21.01.1985 (Annexure P-1), the petitioners filed a civil suit before the trial Court at Patiala. The above said suit was dismissed vide judgment and decree dated 10.09.1988 (Annexure P-2). Aggrieved against the above said judgment and decree dated 10.09.1988 (Annexure P-2) passed by the trial Court, the petitioners preferred an appeal before the lower Appellate Court. The lower Appellate Court, vide judgement and decree dated 14.01.1992 (Annexure P-3), accepted the appeal and reversed the judgment and decree of the trial Court. The order of dismissal was set aside by the lower Appellate Court. As per the judgement and decree passed by the lower Appellate Court dated 14.01.1992 (Annexure P-3), the petitioners were held entitled for all rights, benefits and privileges attach to the post.

4. Aggrieved against the judgment and decree dated 14.01.1992 (Annexure P-3) passed by the lower Appellate Court, the respondents-State preferred an appeal before this Court being RSA No.921 of 1992 titled as 'State of Punjab etc. Vs. Harjit and others'. The regular second appeal was allowed by this Court on 16.02.2006 wherein the judgment and decree dated 10.09.1988 (Annexure P-2) passed by the trial Court was restored and the judgment and decree passed by the lower Appellate Court dated 14.01.1992 (Annexure P-3) was set aside. Aggrieved against the judgment passed by this

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Court in RSA-921-1992, the petitioners approached Hon'ble the Supreme Court by way of filing SLP being SLP (C) No.12390 of 2006 titled as 'Harjit Singh and another Vs. State of Punjab and another'. The above mentioned SLP was decided by Hon'ble the Supreme Court on 23.02.2007 (Annexure P-4).

5. A perusal of the judgment passed by Hon'ble the Supreme Court dated 23.02.2007 (Annexure P-4) would show that taking into consideration the length of service rendered by the petitioners, the order of dismissal was modified to an extent of compulsory retirement. It was also observed in the judgment that if the petitioners otherwise were eligible, they would be entitled for grant of retiral benefits.

6. In pursuance to the judgment dated 23.02.2007 (Annexure P-4) passed by Hon'ble the Supreme Court, the petitioners approached the respondents for release of their retiral benefits. The respondents vide order dated 02.04.2007 (Annexure P-5) rejected the claim of petitioners for grant of retiral/pensionary benefits on the ground that the petitioners had not rendered 20 years of service as per the Punjab Civil Services (Premature Retirement) Rules, 1975 (hereinafter referred to as '1975 Rules'). Aggrieved against the above said order, the petitioners have filed the present writ petition.

7. Learned counsel appearing on behalf of petitioners submits that the petitioners have been denied the benefit of the retiral/pensionary benefits on the ground that the petitioners have not rendered minimum of 20 years of service as required under the 1975 Rules. Learned counsel submits that the punishment of dismissal imposed on the petitioners was modified to the

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extent of compulsory retirement as per the judgment passed by Hon'ble the Supreme Court dated 23.02.2007 (Annexure P-4). Learned counsel submits that the 1975 Rules will not be applicable in the case of petitioners as the petitioners were not premature retired from service in terms of 1975 Rules. Learned counsel submits that compulsory retirement imposed on petitioners was by way of punishment as per the judgment passed by Hon'ble the Supreme Court. Learned counsel further submits that in case of employees who have compulsory retired by way of punishment, as per Sub Rule 2(i) of Rule 5.3 (ii) of the 1975 Rules, they are entitled for grant of retiral benefits.

8. On the other hand, learned State counsel submits that in light of the 1975 Rules, an employee is entitled for grant of retiral benefits only if he completes more than 20 years of service and as the petitioners had not rendered the abovesaid period of service as such, their claim has rightly been rejected. It is also the case of learned counsel appearing on behalf of the respondents that even if 1975 Rules are not applicable in the case of petitioners even then the petitioners are not entitled for grant of retiral benefits.

9. I have heard learned counsel for the parties and have gone through the case file.

10. The only issue involved in the present petition is as to whether an employee who has been compulsory retired by way of punishment is required to have service of 20 years as per 1975 Rules for the purpose of grant of retiral benefits.

11. A perusal of the facts of the case would show that the petitioners have been denied grant of retiral benefits on the ground that they

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have not rendered service of 20 years as required under the 1975 Rules, 1975. It is relevant to reproduce 1975 Rules for the purpose of adjudication of this case. The relevant paragraph of the 1975 Rules is as under:-

> *"3 (1)* ***Premature Retirement:***
>
> *(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*

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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 I, Part 1.

(4) The amount of pension to be granted after allowing increase in the qualifying service under sub-rule (2) shall be subject to the provisions of rules 2.2 and 6.4 of the Punjab Civil Services Rules."

12. A perusal of the 1975 Rules, would show that the above said Rules does not deal with cases where an employee has been compulsory retired by way of punishment. The above said Rules deal with the cases where the appropriate authority is of the opinion that in the public interest it is necessary to relieve an employee who has completed 25 years of service and also in the cases where employee wants to opt for pre mature-retirement. In the present petition, it is not the case where the petitioners after completing 20 or 25 years of service have sought pre-mature retirement or respondents have prematurely retired the petitioners in public interest after completing 25 years of service or on attaining 50 years of age. As the petitioners were compulsory retired by way of punishment, as such, it is held that the above said 1975 Rules will not be applicable in the case of petitioners.

13. Taking into consideration the fact that the retiral benefits were declined to the petitioners taking into consideration 1975 Rules which are not applicable in the case of petitioners, the impugned order dated

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02.04.2007 (Annexure P-5) is accordingly quashed. Respondents are directed to reconsider the case of petitioners for grant of retiral benefits, in light of the relevant rules taking into consideration that petitioners were compulsory retired by way of punishment, within a period of 02 months from the date of receipt of certified copy of this order. In case, the petitioners are held entitled for grant of retiral benefits as per the relevant Rules, the necessary retiral benefits be released to the petitioners within a period of one month thereafter.

14. The writ petition is allowed in above said terms.

15. Pending application(s), if any, shall also stand(s) disposed of accordingly.

(DEEPINDER SINGH NALWA)
JUDGE

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Whether speaking/reasoned Yes
Whether Reportable : Yes

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