2026:PHHC:023237

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-3937-2013 (O&M)
Date of decision: 16.02.2026

Baljinder Kaur

....Petitioner

Versus

The Punjab State Agricultural Marketing Board and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Bansal, Advocate
with Mr. Sameer Kumar, Advocate
and Ms. Nishtha, Advocate
for the petitioner.

Ms. Jarnail Kaur Dhaliwal, Advocate
for the respondents.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing the letter dated 01.06.2009 (Annexure P-3) to the extent it gives date of retirement as 18.03.2004 instead of 31.12.2008 and letter dated 10.12.2009 (Annexure P-4). Further a writ of *mandamus* has been sought, directing the respondents to correct the date of retirement of the petitioner as 31.12.2008 and also grant and release the complete pensionary benefits to her with all consequential benefits and other dues along with interest.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner joined the respondent/Board on 28.11.1986 and thereafter,

in the year 2004, the petitioner sought 05 years special leave from 19.03.2004 to 15.02.2009, which was sanctioned on 30.01.2004 (Annexure P-2). During the currency of the leave period, the petitioner filed an application on 31.12.2008, seeking premature retirement with effect from the same date i.e. 31.12.2008. The premature retirement of the petitioner was sanctioned we.f. 18.03.2004 (A.N.) as is evident from the office order No.503(2009) dated 27.05.2009 (Annexure P-3). Learned counsel for the petitioner refers to the Policy dated 08.05.2002 issued by Department of Personnel, Government of Punjab, (Annexure P-1) which provides for 05 years special leave to a government employee for the purpose of self-employment. The eligibility prescribed under the said Policy is 08 years of regular service and in case an employee finds security and stability in the self-employment, then he/she would be allowed to take premature retirement on his/her request during the special leave period and he/she will be given all the retiral benefits as per his/her entitlement according to the Punjab Civil Services (Premature Retirement) Rules, 1975 (hereinafter to be referred as 'the Premature Retirement Rules, 1975'). Further, in case the employee takes a 05 years leave for this purpose, if the leave is not due then it will be treated as leave without pay and he/she can take this leave either at one time or three years leave at first instance and then get extension for two years. Moreover, the lien of the concerned employee of the concerned department shall remain during the currency of 05 years leave till the time the said employee rejoins or takes retirement from the post he/she had gone on leave. Learned counsel for the petitioner further refers to the impugned order (Annexure P-3) and submits that the petitioner was granted leave without pay (Ex-India leave) from 16.02.2004 to 18.03.2004 as earned leave and 19.03.2004 to 15.02.2009 as leave without pay.

3. Learned counsel for the petitioner further relies upon the Premature Retirement Rules, 1975, referred to in the Policy (Annexure P-1) and submits that under Rule 4 (2)(i) while granting proportionate pension and gratuity to an employee retiring under sub-rule (2) or sub-rule (3) of Rule 3, as the case may be, his qualifying service as on the date of intended retirement shall be increased by a period not exceeding 05 years. However, such increase is subject to the condition that the total qualifying service, after adding the said weightage, shall in no case exceed 33 years or the period of qualifying service which the employee would have completed on the date of superannuation, whichever is less. He further submits that only those employees are excluded from the benefits extended under Rule 4, who have prematurely retired by the appropriate authority in public interest under sub-rule (1) of Rule 3. As such, the impugned order is not sustainable in the eyes of law by retiring the petitioner prematurely w.e.f. 18.03.2004, on the ground that the petitioner has submitted her application seeking premature retirement during the currency of special leave. The aforesaid approach is contrary to clause (b) of the Policy (Annexure P-1), which clearly mandates that an employee can seek premature retirement during the special leave

period and he/she will be given retiral benefits entitled to him/her as per Premature Retirement Rules, 1975.

4. *Per contra*, learned counsel for the respondents/Corporation opposes the prayer made by learned counsel for the petitioner on the ground that, as on the date of her intended retirement, the petitioner had neither completed 25 years of qualifying service nor attained the age of 50 years, which are the prescribed conditions for seeking premature retirement under the applicable Rules. Learned counsel for the respondent/Corporation, therefore, submits that since the petitioner did not fulfill the prescribed conditions, her request for premature retirement was not in accordance with the Rules and consequently, she was rightly treated as having retired w.e.f. 18.03.2004.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. From the perusal of the record, it transpires that the Department of Personnel, Government of Punjab, issued a Policy dated 08.05.2002 (Annexure P-1) which provides for 05 years special leave to a government employee for the purpose of self-employment. The operative part of the said Policy (Annexure P-1), reads as follows:-

> *"**a. Any employee who has completed 8 years regular service, can give application for Special leave for the purpose of self employment.***
> ***b. if he is successful in his self employment then he can take pre-mature retirement on own request during the special leave and he will be given all***

retiral benefits entitled to him as per Premature Retirement Rules, 1975.

c. Any employee can take 5 years leave for this purpose. If the leave is not due then it will be treated as leave without pay (Extra Ordinary Leave). He can take this leave either at one time or three year leave at first instance and then get extension for two years.

d. *During this leave, the employee can seek opportunity for self employment. If he is able to settle on private side then he can take retirement or resign from the government service as per rules at the end of the leave or before that. At this time, he will not misuse his post and will obey the Conduct Rules.*

e. The lien of the concerned employee of the concerned department shall remain during the currency of 5 years leave till the time employees rejoined or take retirement from the post he had gone on leave.

f. *During this period, the employee will get the due leave salary as per rules but the employees who get non practice allowance or any other allowance, will not get the same.*

g. *If the concerned employee is not successful in his self employment/venture and he rejoins the service, then he will be entitled to get his pay fixed as per the rules.*

h. *Only that period shall be counted for pension, which is countable for pension as per the prevalent rules seeing the nature of leave.*

i. This Special Leave will be deducted from his leave account and if the employee take access leave then entitled to him, then the recoveries shall be made from him as per rules.

j. No one else shall be recruited in place of the concerned employee during this leave.

k. The power to sanction this leave shall be with the head of the department for group 'c' and 'd' employees and concerned Administrative Secretary shall decide for group 'a' and 'b' Officers. But sanctioning or denying leave to any employee will depend upon the concerned officers and who shall be competent to decide from concerned facts/circumstances.

l. after taking leave under this scheme, the concerned employees will not be able to cut his leave within a period of 3 years. If he is to rejoin service after completion of leave then he is to rejoin after passage of minimum three years of leave and before expiry of 5 years.

m. The concerned employee will be entitled to withdraw 75% amount of the balance in his GP funds account for starting self employment/venture.

n. This leave sanction for the purpose of self employment shall be considered as sanctioned by competent authority under Chapter 8, part I, Volume I, of Punjab Civil Services Rules and this grant shall be taken as sanction by the competent authority under Rule 15 of the Conduct Rules, 1966.

o. This leave can be taken only once during the entire service.

> ***p.*** *If the employee is sanctioned this Special Leave that he can retain his Govt. House on this condition. He will furnish security bond for payment of rent allowances, only for the period of Extra Ordinary leave.*
>
> ***2.*** *The following categories of employees shall not be entitled for seeking special leave under this scheme:-*
>
> ***a.*** *Special Officer/employees who have furnishes the bonds for service and it is not completed as yet.*
>
> ***b.*** *Employees/Officers who are serving in foreign country under special arrangements/bonds.*
>
> ***c.*** *Such employees against whom disciplinary proceedings are pending or is likely to be initiated or are under suspension.*
>
> ***d.*** *The employees recruited on contract basis.*
>
> ***e.*** *Any other categories of employees, which is not considered suitable for the scheme by the State Government.*
>
> ***3.*** *These instructions be brought to the notice of all employees under you. The necessary action for amendments in the concerned rules shall be done separately.*
>
> ***4.*** *This letter is issued after sanction from the Finance Department received vide their letter no. 1/14/2001-3 F.P.2/26 dated 15.01.2002."*
>
> *(emphasis added)*

7. Clause (a) and (b) of the aforesaid Policy dated 08.05.2002 (Annexure P-1) provides that any employee, who has completed 08 years of regular service can given application for special leave for the purpose of self-employment and in case he/she finds security and stability in self-employment, then he/she can be allowed to take

premature retirement on his/her request during the special leave period and he/she will be given all the retiral benefits as per his/her entitlement according to the Premature Retirement Rules, 1975. The impugned order further reveals that the petitioner was granted leave without pay (Ex-India leave) from 16.02.2004 to 18.03.2004 as earned leave and 19.03.2004 to 15.02.2009 as leave without pay. The petitioner has submitted her application on 31.12.2008, seeking premature retirement with effect from the same date i.e. 31.12.2008. However, vide impugned order dated 27.05.2009 (Annexure P-3), the premature retirement of the petitioner was sanctioned we.f. 18.03.2004 (A.N.).

8. Further, it is not in dispute that the petitioner, in terms of the applicable Rules, has not submitted 03 months salary as advance notice. The Policy dated 08.05.2002 (Annexure P-1) clearly provides that the concerned government employee can take premature retirement during the period of special leave and he/she will be entitled to all retiral benefits in terms of the Premature Retirement Rules, 1975. The operative part of the Premature Retirement Rules, 1975, reads as follows:-

> ***"THE PUNJAB CIVIL SERVICES (PREMATURE RETIREMENT) RULES, 1975***
>
> *Rules framed by the Punjab Government under article 309 of the Constitution of India and all other powers and with the previous approval of the Central Government under sub-section (7) of section 115 of the States Re-organisation Act, 1956 and subsection (6) of section 82 of the Punjab Re-organisation Act, 1966.*

***1. Short title and commencement**:– **(1)** These rules may be called the Punjab Civil Services (Premature Retirement) Rules, 1975.*

***(2)** They shall come into force at once.*

***(3)** They shall also apply to the Secretariat Staff of the Legislative Assembly.*

***2. Definitions**:–In these rules, unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them, that is to say–*

***(1)** "appropriate authority" means the authority which has the power to make substantive appointments to the post or service from which the Government employee is required or wants to retire or any other authority to which it is subordinate.*

***(2)** "employee" means any person appointed to public services and posts in connection with the affairs of the State of Punjab, excluding those listed in rule 7.*

***(3)** "qualifying service" means service qualifying for pension.*

***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 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 therefor 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 I, Part I.*

***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.*

4. ***Retiring Pension and gratuity****.–**(1)** A retiring pension and death-cum-retirement gratuity shall be granted to a Government employee who retires or is required to retire under rule 3.*

(2) ***<u>(i) While granting proportionate pension and gratuity to an employee retiring under sub-rule (2) or sub-rule (3) of rule 3, as the case may be, his qualifying service, as on the date of intended retirement shall be increased by a period not exceeding five years, so however, that the total qualifying service of the employee as so increased shall not in any case exceed thirty-three years or the period of qualifying service which the employee would have completed had he retired on the date of his superannuation, whichever be less.</u>***

(ii) ***<u>The weightage of five years under clause (i) shall not be admissible in cases of those Government employees who are prematurely retired by the appropriate authority in public interest under sub-rule (1) of rule 3</u>***.

(3) *The pension and gratuity of the employee retiring under sub-rule (2) or sub-rule (3) of rule 3, as the case may be, shall be based on the emoluments as defined in rule 6.19-C and 6.24 of the Punjab Civil Services Rules, Volume II, and the increase in his qualifying service under sub-rule (2) shall not entitle him to any notional fixation of pay for purposes of calculating pension and gratuity.*

(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, Volume II.”*

(emphasis added)

9. A perusal of Rule 4(2)(i) of the Premature Retirement Rules, 1975, clearly indicates that while granting proportionate pension and gratuity to an employee retiring under sub-rule (2) or (3) of Rule 3,

the qualifying service as on the date of intended retirement is to be increased by a period not exceeding 05 years, subject to the outer limit of 33 years or the service which the employee would have completed on the date of superannuation, whichever is less. The said Rule further makes it clear that the benefit of such weightage is not available only to those employees who are prematurely retired by the appropriate authority in public interest under sub-rule (1) of Rule 3.

10. In the present case, a conjoint reading of the Premature Retirement Rules, 1975 and the Policy dated 08.05.2002 (Annexure P-1) makes it evident that the Policy was framed in consonance with the statutory scheme of the Premature Retirement Rules, 1975. The Policy specifically permits an employee, who has availed five years' special leave for self-employment, to seek premature retirement during the currency of such leave and to receive retiral benefits in accordance with the said Rules. Therefore, once the petitioner applied for premature retirement on 31.12.2008 during the subsistence of the special leave period, the respondents could not have treated her as having retired with effect from 18.03.2004, i.e. the date of commencement of leave. The impugned action is thus contrary to both the Policy dated 08.05.2002 (Annexure P-1) and the Premature Retirement Rules, 1975.

11. Accordingly, the present writ petition is allowed. The impugned orders dated 01.06.2009 (Annexure P-3) and 10.12.2009 (Annexure P-4), to the extent they treat the petitioner as having retired with effect from 18.03.2004, are hereby set aside. The respondents are

directed to treat the petitioner as having retired w.e.f. 31.12.2008 and to re-calculate and release all consequential pensionary and retiral benefits to her, including any differential amount arising due to the corrected date of retirement, along with interest at the rate of 6% per annum, within a period of 03 months from the date of receipt of a certified copy of this order.

12. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

16.02.2026
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No