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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-30574-2024 (O&M)

Date of Decision : 23-07-2025

HARPAL SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Puneet Gupta, Advocate
for the petitioner.

Mr. Rahul Rampal, Addl. A.G., Punjab .

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that the petitioner has been retired vide order dated 05.11.2024 (Annexure P-18) retrospectively 24 days prior to his retirement i.e. on 30.11.2024 without considering the fact that the petitioner is physically handicapped and is entitled to continue upto the age of 60 years, which is a prescribed age for the retirement for the physically handicapped, which act on the part of the respondents is arbitrary and illegal.

2. Learned counsel for the petitioner further argues that not only the petitioner has been retired retrospectively on attaining the age of 58 years but even the financial benefits which he has got for the period beyond 58 years is being recovered vide order dated 05.11.2024 (Annexure P-18)

and the departmental proceedings are being initiated against the petitioner, which cannot be done.

3. Upon notice of motion, the respondents have appeared and stated that the petitioner is claiming the retirement age of 60 years by raising an assertion that he is a physically handicapped whereas, the disability of the petitioner is only 30% and only the person having more than 40% of the disability are entitled to continue upto the age of 60 years hence, the claim of the petitioner that he is entitled to continue upto the age of 60 years, is incorrect.

4. Learned counsel for the respondents further submits that as the petitioner has further worked beyond his entitled date of superannuation which is 58 years, the financial benefits taken by the petitioner beyond the age of 58 years are liable to be taken back from him also the initiation of the departmental proceedings, is correct.

5. I have heard the learned counsel for the parties and have gone through the records of the present case with his able assistance.

6. The Punjab Civil Services Rules are very clear as to who is to be treated as a physically handicapped so as to attain the age of superannuation on attaining the age of 60 years. Only a physically disabled having more than 40% of the disability are entitled for the said benefit whereas it is conceded position that the petitioners' disability is less than 40% so as to be treated as a disabled to continue upto the age of 60 years hence, the retirement age of the petitioner is 58 years for all intents and purposes, for which date he is being retired retrospectively, which action of the respondents cannot be as faulty.

7. The argument of the learned State counsel that the petitioner has worked beyond his entitled age which was 58 years hence, he is liable to refund the financial benefits, cannot be accepted by this Court. Once, the respondent-Department allowed the petitioner to continue in service and in fact, he discharged the duties for a period beyond the age of 58 years and was granted the financial benefits for the said period, such benefits extended cannot be taken back for a period especially when an employee has actually discharged the duties for the concerned period. An employee is entitled for the salary for a period he/she has discharged the duties hence, claiming back the financial benefits granted for the period the petitioner served beyond the age of 58 years is incorrect and no such benefit already extended is liable to be claimed back by the respondent-Department. The petitioner is entitled to retain the financial benefits which he has earned after performing the duties of the Post.

8. With regard to the initiation of the disciplinary proceedings, it may be noticed that nothing evident has been brought on record that the petitioner manipulated or misrepresented so as to continue beyond the age of 58 years. It is the respondent-Department who allowed the petitioner to continue in service until they realise their own mistake. Once, there is no misrepresentation on the part of the petitioner, no disciplinary proceedings need to be initiated so as to harass a retired employee who is otherwise 30% physically disabled.

9. Keeping in view the totality of the circumstances, the petitioner will be deemed to be retired retrospectively on attaining the age of 58 years and whatever his salary was at the age of 58 years will be taken as the salary for computing the pensionary benefits. The financial and the handicapped

benefit of the petitioner taken beyond 58 years will be retained by the petitioner with the further direction that no disciplinary proceedings will be initiated for the said purpose against the respondent employee.

10. Present petition is disposed of.
11. Pending application, if any, also stands disposed of.

23-07-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO