

(2019) 12 SHI CK 0044
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 3648 Of 2019

Jatinder Jagta

APPELLANT

Vs

Vice Chancellor HPU & Others

RESPONDENT

Date of Decision : 13-12-2019

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 48A, 48A(2)

Citation : (2019) 12 SHI CK 0044

Hon'ble Judges : Dharam Chand Chaudhary, J;Anoop Chitkara, J

Bench : Division Bench

Advocate : Shrawan Dogra, Tejasvi Dogra, Neel Kamal Sharma, Lokinder Paul Thakur

Final Decision : Disposed Of

Judgement

Dharam Chand Chaudhary, J

1. Heard.

2. The present is a case where the petitioner, a junior assistant, working as such in the office of Honorary Director, Cost of Cultivation Scheme, Himachal Pradesh University, Shimla has issued the notice, Annexure P-7, for seeking voluntary retirement from service on completion of more than twenty years of service in the respondent-University on 3.7.2019. Subsequently, he issued a reminder dated 3.10.2019, Annexure P-8, also, but of no avail as he has not been allowed to retire voluntarily from service nor relieved. This has led in filing the present petition with the following prayers:-

"i) That the petitioner may be declared to have retired from service of the respondents No.1 and 2 as Junior Assistant w.e.f. expiry of three months from 3.7.2019 i.e. from 2.10.2019.

ii) That the petitioner may be directed to be relieved from the post of Junior Assistant with immediate effective.

Iii) The petitioner may be held entitled to all retiral benefits in accordance with the rules and all necessary actions in this regard may be directed to be taken by respondent No.1 in a time bound schedule."

2. In reply to the writ petition, there is no quarrel so as to the petitioner after having completed more than 20 years of service has served the respondent-University with the notice dated 3.7.2019 seeking his retirement voluntarily from service. There is again no dispute so as to he having sent a reminder also on 3.10.2019 to relieve him with immediate effect from service as consequent upon the notice the respondent-University did not refuse to retire him voluntarily within a period of three months from the date of issuance thereof. The stand of the respondent-University rather is that the petitioner is the only conversant official to handle many pending matters related to violation of CCS Rules. Therefore, as per the reply filed by the respondent-University, the petitioner could not be relieved as his services are further required in the University.

3. On hearing Mr. Shrawan Dogra, learned Senior Advocate assisted by Mr. Tejasvi Dogra, Advocate and Mr. Neel Kamal Sharma, learned standing counsel as well as going through the record, the request for voluntary retirement and for that matter to relieve the petitioner from service after the period of three months notice over, could have not been ignored only for the reasons that the services of the petitioner are required further in the University to expedite various matters pending in the office and pertaining to his seat. It is worth mentioning that Rule 48-A of the CCS (Pension) Rules provide for serving the employer atleast with three months notice in advance by a Government servant seeking voluntary retirement, on completion of 20 years of service. The proviso to sub-rule 2 of Rule 48-A further provides that in case the appointing authority does not refuse to grant permission for retirement before the expiry of the period specified in the notice, in that case the retirement shall become effective from the date of expiry of the said period.

5. Similar is the ratio of the judgment of the apex Court in State of Harayana & Ors. versus S.K. Singhal, (1999) 4, SCC, 293. Not only this, in the present case, the respondent- University has not disputed the claim of the petitioner as set out in the writ petition. The only plea that the petitioner is only official well conversant with the functioning of the scheme in question and other related issues, cannot be taken to defeat the claim of the petitioner, which otherwise is justified and covered under the Rules.

6. We therefore, allow this writ petition with the observations that the petitioner stood already retired from service on and w.e.f. 02.10.2019, on expiry of the period of three months from the date of issuance of notice i.e. 03.07.2019. He, however, has not yet been relieved. We, therefore, direct the respondent-University to relieve him of his duties on or before 31st December, 2019 in the afternoon. All the retiral benefits, in accordance with Rules, be released in favour of the petitioner at the earliest, however, not beyond 31.03.2020.

With these observations, the writ petition is disposed of so also the pending application(s), if any.