

(2012) 04 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5794 of 2010

SI Ramesh Chand

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Citation : (2012) 168 PLR 718

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : P.K. Rohilla, for the Appellant; Sunil Nehra, D.A.G., Haryana, for the State, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioner has approached this Court for quashing of order dated 14.12.2009 (Annexure P-3) and order dated 26.03.2010 (Annexure P-6) vide which the petitioner has been voluntarily retired from service w.e.f. 31.03.2010 on attaining the age of 55 years with a further prayer that a writ of mandamus be issued directing the respondents to allow the petitioner to continue in service till the age of super-annuation. Facts of the case are that the petitioner submitted an application for voluntary retirement on 11.11.2009. This request was to take effect from 31.03.2010. The said application was accepted by the respondents vide order dated 14.12.2009 (Annexure P-3), which was received by the petitioner on 19.03.2010. Petitioner, on 27.01.2010, submitted his representation to withdraw his application dated 11.11.2009, vide which he had sought voluntary retirement. This representation of the petitioner was rejected by the respondents vide order dated 26.03.2010 (Annexure P-6), which has been impugned in the present writ petition.

2. Counsel for the petitioner contends that the petitioner had given a notice for voluntary retirement w.e.f. 31.03.2010 and prior to the coming into force of the said request, although the same had been accepted on 14.12.2009, petitioner could withdraw his notice of retirement on voluntarily basis. He, on this basis,

contends that having submitted an application for withdrawal of his application for voluntary retirement on 27.01.2010, the impugned order rejecting his application for withdrawal of the voluntary retirement cannot be accepted as the same is not in accordance with law. In support of this contention, counsel for the petitioner has placed reliance upon a Division Bench judgment of this Court passed in CWP No. 19342 of 2005 titled as CD. Aneja v. State of Haryana and others, decided on 20.11.2006.

3. On the other hand, counsel for the respondents has submitted that the petitioner, no doubt, could withdraw his application for voluntary retirement prior to the coming into force thereof on the acceptance of the competent authority but the withdrawal can only be sought with the permission of the competent authority which, in the present case, has not been granted. His further submission is that on the application for withdrawal of his voluntary retirement, petitioner was called for personal hearing by the Inspector General of Police on 08.03.2010. On appearance before the Inspector General of Police, Railways and Technical Services, Haryana, petitioner reiterated his desire to proceed on voluntary retirement w.e.f. 31.03.2010. It is, on this basis, that the permission for withdrawal from voluntarily retirement by the petitioner was not accepted. Accordingly, his contention is that the present writ petition cannot be allowed as the order of acceptance of the voluntary retirement of the petitioner is in accordance with law and further the mandate of Rule 3.26 of the Punjab Civil Services Rules requires the approval of the competent authority after the request for voluntary retirement has been accepted for withdrawing the same.

4. I have considered the submissions made by the counsel for the parties.

5. The case was heard by this Court earlier also when this Court had directed the respondents to produce the records to show the stand of the respondents that the petitioner had reiterated his request for voluntary retirement before the Inspector General of Police when he was given a personal hearing on 08.03.2010. The records have been perused, wherein it is apparent from the letter dated 15.03.2010 addressed to the Senior Superintendent of Police, Railways, Haryana, from the Inspector General of Police, Railways and Technical Services, Haryana, that during the personal hearing on 08.03.2010, petitioner had reiterated his desire to proceed on voluntary retirement w.e.f. 31.03.2010. In view of the above position, the contention of the counsel for the petitioner that the petitioner had sought withdrawal of his application for voluntary retirement and he had not reiterated his claim with regard to his desire to proceed on voluntary retirement w.e.f. 31.03.2010 is negated. The facts are not in dispute that the petitioner initially vide his application dated 11.11.2009 sought voluntary retirement which request of the petitioner was accepted vide order dated 14.12.2009. Petitioner thereafter, sought withdrawal of the application dated 11.11.2009 on 27.01.2010, which, no doubt, the petitioner could have done as the notice period was to come into effect from 31.03.2010 but in the light of the provisions, as contained under Rule 3.26 of the Punjab Civil

Services Rules, Chapter III, Volume I, Part 1, the same could have been withdrawn only after the permission of the competent authority. The petitioner, in pursuance to his representation dated 27.01.2010, was called for personal hearing by the Inspector General of Police on 08.03.2010, on which date, during the personal hearing as has been recorded in the letter dated 15.03.2010 of the Inspector General of Police, referred to above, the petitioner reiterated his desire to proceed on voluntary retirement w.e.f. 31.03.2010, for this reason the competent authority did not accept his application for withdrawal of his initial application for voluntary retirement. Petitioner cannot be allowed to blow hot and cold in the same breath and he cannot change his mind on and off on his own sweet whims and fancies. The Rules, which have been framed, have to be given effect to and have to be adhered to strictly. The judgment relied upon by the counsel for the petitioner in the case of CD. Aneja (supra) would not be applicable to the facts of the present case as the petitioner in the present case had asserted during personal hearing that he did not want to press for withdrawal of the earlier option of voluntary retirement. So the discretion available to the petitioner for withdrawal having been exercised once and then recalled leaves him with no further option to press after the date of coming into force of order of retirement to recall the same subsequently.

In view of the above, finding no merit in the present writ petition, the same stands dismissed.