
(2002) 08 P&H CK 0032

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 50 of 2000

State of Haryana and Another

APPELLANT

Vs

Madan Pal Ahlawat

RESPONDENT

Date of Decision : 22-08-2002

Acts Referred:

Constitution of India, 1950 — Article 311(2)
Punjab Civil Services Rules — Rule 4.19, 6.16(2)

Citation : (2003) 133 PLR 346

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : N.S. Bhinder, D.A.G, for the Appellant; Amritpal, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—The respondent filed the suit in the trial court seeking declaration to the effect that he is entitled to retirement pension and gratuity benefits, on the basis of the service rendered by him with the appellants from 16.5.1973 to 1.11.1984. The appellants opposed the claim of the respondent on the ground that he is not entitled to pension as under Rule 4.19 of the Punjab Civil Services Rules Vol.11, Part II (as applicable to State of Haryana) (hereinafter referred to as "the pension rules") which provides that resignation from public service entails forfeiture of past service. Therefore, no pension can be granted to the respondent. The trial court has come to the conclusion that the respondent would be entitled to proportionate pension as provided under Rule 6.1 (2) of the Pension rules. The trial court decreed the suit with interest at the rate of 12% per annum. The appeal filed by the appellants-State has been dismissed by lower appellate court. Hence the present Regular Second Appeal.

2. Learned counsel for the State has vehemently argued that the case of the respondent will not fall within the purview of Rule 6.16(2) of the Pension Rules. According to the learned counsel, the aforesaid rule deals only with employees who retire after rendering qualifying service. This rule would not be applicable, if

the government employee resigns from service. In such circumstances, the employee would lose the right to receive pension under Rule 4.19 (a).

3. On the other hand, Mr. Amritpal has submitted that the matter is squarely covered by a number of decisions of this Court. He has placed reliance on a Single Bench Judgment of this Court in the case of Haryana State through Collector Jind and another v. Ex. Const. Jai Singh No. 244/Jind, vide R.S.A. No. 2682 of 2001, decided on 26.9.2001. In that case, after considering the import of Rule 6.16(2), it has been held that the respondent-plaintiff therein had been rightly held to be entitled to all the retiral benefits, including pension and gratuity. In this case, the Constable voluntarily resigned from service, after putting in 13 years of service. The same provision was also considered by this Court in the case of Ganga Bishan Vs. State of Haryana and Others, . In that case, the petitioner had retired, after completion of 18 years, 5 months and 15 days of service. It has been held that the petitioner was entitled to the grant of pension in view of the provisions of Rule 6.16(2). He was also entitled to the grant of gratuity, in accordance with the provisions of the rules. In the case of Jagdish Miner v. State of Punjab 1998 (4) S.C.T. 157 the Single Bench of this Court has again held that a person who has put in more than 10 years of service is entitled to the pension even though he voluntarily retires or resigns voluntarily. Rule 6.16(2) has also been considered by the Division Bench of this Court in the case of Babu Singh v. State of Haryana and Ors., in CM. No. 10362 of 1999 in CWP No. 2890 of 1997. In that case it has been held by the Division Bench that a government employee becomes eligible for pension on completion of 10 years of service.

4. I am of the considered opinion that the matter is squarely covered by the judgment of this Court in the case of Ex. Const. Jai Singh (supra). There is no dispute that in the present case, the respondent had completed 11 years, 5 months and 15 days of service, when he resigned from service on 1.11.1984 due to domestic reasons. Having put in more than 10 years of service, the respondent was clearly entitled to proportionate pension as provided under Rule 6.16(2). This rule provides that in the case of a government employee, who at the time of retirement has rendered qualifying service of 10 years or more, but less than 33 years the amount of pension shall be such proportion of the maximum admissible pension as such the qualifying service of thirty three years, subject to a minimum of Rs. 375. This being the rule, both the courts below have correctly held the respondent to be entitled to the pensionary benefits.

5. I am of the opinion that the reliance on Rule 4.19(a) by Mr. Bhinder, appearing on behalf of the State is wholly misconceived. That rule applies only in cases where a resignation is submitted by a government servant to avoid an order of dismissal or removal from service either under proviso C to Article 311(2) for anti-national activities such as sabotage, espionage etc. or for misconduct. Naturally, under such circumstances, there would be forfeiture of past service and no pension would be granted. This provision cannot possibly be made

applicable to a voluntary resignation from service for domestic reasons. Even in the case of resignation, the case would clearly fall under Rule 6.16(2). In view of the above, I find no merit in the Regular Second Appeal and the same is dismissed with costs.