



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8137 of 2023
Date of Decision: 10.9.2025

Prem Lal
.....Petitioner
Versus
State of Himachal Pradesh and Ors.
.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? Yes.
For the Petitioner: Mr. R.L. Chaudhary, Advocate.
For the respondents: Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C. Verma, Additional Advocates General and Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, J. *(Oral)*

Petitioner herein is aggrieved of order dated 10.8.2023 (Annexure P-13), whereby representation having been filed by him in terms of judgment dated 6.7.2023 passed by this Court in CWPOA No. 5993 of 2019, titled Prem Lal Rao v. State of Himachal Pradesh, praying therein for re-employment, came to be rejected on the ground that his case is not covered in terms of Clause 12.25 of Punjab Police Rules, which are applicable to State of Himachal Pradesh.

2. Precisely, the facts of the case as emerge from the pleadings adduced on record by the respective parties are that initially, petitioner herein was appointed as Constable in the respondent department in the year 22.12.1986, but subsequently he was promoted to the post of Head Constable. In the year 2010,

petitioner was promoted to the post of ASI. After having rendered services as ASI for two years, petitioner herein vide communication dated 23.4.2012, prayed for voluntary retirement from the service of respondent department, which was duly accepted. After acceptance of his prayer for voluntary retirement, petitioner is in receipt of regular pension on account of his having rendered service more than qualifying service as per CCS Pension Rules.

3. On 6.1.2014, petitioner submitted an application for reemployment/reinstatement in the respondent-department in terms of Rule 12.25, which prayer of him came to be rejected vide order dated 5.8.2014 passed by the respondent/Department.

4. Being aggrieved and dissatisfied with aforesaid decision taken by the respondent, petitioner approached the erstwhile HP Administrative Tribunal by way of Original Application No. 4049 of 2015, which subsequently on account of abolishment of the Tribunal came to be transferred to this Court and was registered as CWPOA No. 5993 of 2019. This Court vide judgment dated 6.7.2023 allowed the petition in following terms:

“15 In aforesaid facts and circumstances, the rejection of application of petitioner for his re-employment is neither justified nor tenable and the same is quashed and set aside and accordingly, communication dated 5.8.2014, Annexure A-10, also stands quashed and set aside.

16 Respondents/State, through the Principal Secretary (Home) to the Government of H.P., is directed to consider the case of petitioner afresh in the light of provisions of Rule 12.25 of

Punjab Police rules and to take a decision accordingly in accordance with law on or before 16th August, 2023.

17 It is made clear that the present age of petitioner shall not come in the way for considering his case for his reemployment as he had already applied in the year 2014 and his case was rejected in the same year in the month of August, 2014 and immediately thereafter, he approached the Erstwhile H.P. State Administrative Tribunal by filing OA No. 4049 of 2015 which was transferred to this High Court on abolition of Erstwhile H.P. State Administrative Tribunal and was re-registered as present petition i.e. CWPOA No. 5993 of 2019.

18 The case of petitioner is to be considered by taking into consideration his age at the time of submission of his application and consideration/rejection of his claim by competent authority in the year 2014.

19 However, it is made clear that in case petitioner is reemployed in terms of Rule 12.25 of Punjab Police Rules and such terms are agreeable to the petitioner then on joining of service, he shall not be entitled for any actual monetary benefits for the period from 2014 till his re-employment but he shall be entitled for actual monetary benefits only after his date of re-joining but subject to provisions of Rule 12.25 of Punjab Police Rules.

20 Needless to say that petitioner shall be entitled for notional benefits of service w.e.f. 5.8.2014, the date on which his claim was rejected till his actual date of joining, on notional basis for calculation of all other benefits including financial benefits like increment(s) and pensionary benefits etc.

Petition stands allowed in aforesaid terms including all pending miscellaneous application(s), if any.”

5. Though in terms of aforesaid judgment, petitioner herein was directed to file representation to the competent authority for consideration of his case for reemployment, but while passing

aforesaid direction, coordinate Bench of this Court also directed that since petitioner had applied in 2014 and his case was rejected in August 2014, whereafter he immediately approached erstwhile HP Administrative Tribunal by way of OA No. 4049 of 2015, his case shall be considered taking into consideration age of the petitioner at the time of submission of his application in terms of Rule 12.25.

6. Though respondents in terms of mandate contained in the afore judgment, considered the case of the petitioner afresh, but rejected the same vide order dated 10.8.2023 (Annexure P-13) on the ground that Rule 12.25 cannot be made applicable in the case of the petitioner because he had sought voluntary retirement, whereas Rule 12.25 talks about discharge with compensation or invalid gratuity or pension.

7. Being aggrieved and dissatisfied with aforesaid order passed by the respondents, petitioner has approached this Court in the instant proceedings, praying therein to set-aside aforesaid order with further direction to the respondents to reemploy him in terms of Rule 12.25, on the basis of application submitted by him in 2014.

8. I have heard the learned counsel for the parties and perused the record of the case.

9. In nutshell, grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. R.L. Chaudhary, Advocate, is that respondents while passing impugned

order dated 10.8.2023 (Annexure P-13) has wrongly interpreted Rule 12.25 because it provides for three situations where prayer made by the petitioner or other similarly situate persons for reemployment can be considered i) in case petitioner was earlier discharged with compensation; ii) was paid invalid gratuity; and iii) he was authorized pension. He submitted that though petitioner was not discharged with compensation or invalid gratuity but on account of his voluntary retirement, he is in receipt of pension and as such, he is required to be granted reemployment in terms of Rule 12.25.

10. To the contrary, Mr. Vishal Panwar, learned Additional Advocate General, while referring to the reply filed by the respondents vehemently argued that no illegality can be said to have been committed by the respondents while passing impugned order because Rule 12.25, if read in entirety, clearly reveals that person seeking reemployment should have been discharged with compensation or invalid gratuity /pension, but in the case at hand, petitioner was voluntarily retired and as such, he is not entitled for reemployment.

11. The question which needs to be determined in the case is “whether petitioner herein is entitled to seek reemployment in terms of Rule 12.25 of the Punjab Police Rules, which are admittedly applicable to the State of Himachal Pradesh”.

12. Before exploring answer to the aforesaid question, it would be apt to take note of Rule 12.25, which reads as under:

“12.25 Re-enrolment of police pensioners:- (1) Under the orders contained in Articles 511 to 519, Civil Service Regulations, a police officer who has been discharged with a compensation or invalid gratuity or pension may be re-employed in the police service up to the age of 55 subject to the following conditions :-

(a) He may either refund the gratuity or cease to draw pension, in which case he may count his former service for future pension, or he may retain his gratuity or pension in which case he cannot count his former service towards future pension.

(b) He shall be re-examined by the Civil Surgeon of the district in which he has been re-employed and certified as medically fit for service, and shall produce a discharge certificate showing that his previous service was classed as not lower than “good”.

(2) The order re-enrolling such officer shall specifically state the amount of any gratuity, bonus or pension received by him on discharge, and a copy of such order shall be communicated to the Accountant-General. Directions shall also be given, if necessary, for the proper deductions to be made from his pay.”

13. Very heading of the afore rule itself suggests that same deals with re-enrolment of police pensioners, meaning thereby, a person, who after his retirement is in receipt of pension, can seek re-employment, but subject to the conditions as detailed in aforesaid Rule 12.25. As per aforesaid Rule, a police officer, who has been discharged with compensation or invalid gratuity or pension may be re-employed in the police service up to the age of 55 subject to the condition that he /she may either refund the gratuity or cease to draw pension, in which case he counts his former service for pension or he may retain his gratuity or pension, but in that case he cannot count

his former service towards pension. Most importantly, person desirous of the employment shall be reexamined by the Civil Surgeon of the district in which he has been reemployed and he would certify that he is medically fit for service.

14. Though Mr. Panwar, attempted to argue that for seeking reemployment/ re-enrolment in terms of Rule 12.15, person concerned should have been discharged with compensation or invalid gratuity and pension, but this Court is not persuaded to agree with his submission for the reason that in terms of Rule 12.25, a person concerned can seek re-enrolment in three situations ; i) discharge with compensation; ii. discharge with invalid gratuity; or iii) he should be in receipt of pension. In the aforesaid rule, word “or” has been used between words “compensation”, “invalid” and gratuity, meaning thereby, person having any one of the aforesaid three situations can seek reemployment, but definitely there is nothing to suggest in the afore rule that person seeking reemployment in terms of afore rule, should satisfy all the three conditions. Admittedly, in the case at hand, petitioner sought voluntary retirement, which prayer of him was accepted and after his retirement, he is in receipt of pension. If petitioner is in receipt of pension on account of his having rendered service in police force, he is very much entitled to seek re-employment

in terms of Rule 12.25. As has been discussed herein above, Rule 12.25 provides for re-enrolment of police pensioners. Pensioners may be of three types: i) person may be discharged with compensation but without pension; ii) person may be discharged with invalid gratuity without pension or iii) person after having sought voluntary or premature retirement, may be in receipt of regular pension. All the above three categories are independent of each other. A person is entitled to seek reemployment in terms of rule 12.25, but subject to conditions as contained in the aforesaid rule. In case petitioner at the time of his discharge has received invalid gratuity, he may have to refund the gratuity and in case, he is in receipt of pension, he shall cease to draw the pension, but in that case, he may count his former service for future pension. Similarly, though person concerned may retain his gratuity or pension, but in that case, he cannot count his former service towards future pension. Most importantly, a person seeking reemployment has to produce fitness certificate issued by Civil Surgeon of the district.

15. In the case at hand, petitioner, who has rendered 26 years of service sought retirement on account of adverse family circumstances, which was accepted by the competent authority under Sub-Rule 2 of Rule 3 of The Himachal Pradesh Civil Services (Premature Retirement) Rules, 1976 and accordingly, he retired from the service on 30.4.2012 and since then, he is in receipt of monthly

retirement pension. Afore rule clearly provides that a person, who has been discharged with compensation or invalid gratuity or pension can seek reenrollment. Since, in the case at hand, petitioner after his voluntary retirement, is in receipt of pension, he is very much entitled to seek reemployment in terms of Rule 12.25. In view of the above, order dated 10.8.2023 (Annexure P-13) cannot be said to be in accordance with law and as such, same deserves to be quashed and set-aside.

16. Though at this stage, Mr. Panwar, learned Additional Advocate General attempted to argue that petitioner has almost completed 55 years of age and as such, he is otherwise not entitled for reemployment, but such plea of him deserves outright rejection for the reason that coordinate Bench of this Court vide judgment dated 6.7.2023, passed in CWPOA No. 5993 of 2019, while issuing direction to the respondents to consider and decide case of the petitioner afresh, has made it clear that issue with regard to age will not come in the way of the petitioner for the reason that he had submitted application for reemployment in the year 2014 and same shall be considered taking note of the age of the petitioner in the year 2014. Since at the time of making application, petitioner was not of 55 years and his prayer has been found to be strictly in terms of Rule 12.25, plea of age sought to be raised deserves outright rejection.

17. Consequently, in view of the above, present petition is allowed and impugned order dated 10.8.2023, (Annexure P-13) is quashed and set-aside with further direction to the respondents to consider and decide the application of the petitioner submitted in the year 2014 for reemployment in terms of Rule 12.25 as well as observations made herein above, expeditiously, preferably, within two weeks, but while doing so, issue with regard to age will not come in the way of the petitioner in light of earlier judgment dated 6.7.2023 rendered by coordinate Bench of this Court.

18. In the aforesaid terms, present petition is disposed of so also pending applications, if any.

September 10, 2025
(manjit)

(Sandeep Sharma),
Judge