

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-466-2024

Harpreet Singh Ghai

.....Petitioner

Versus

State of Punjab and others

....Respondents

1.	The date when the judgment is reserved	16.07.2026
2.	The date when the judgment is pronounced	19.08.2026
3.	The date when the judgment is uploaded on	20.08.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable

CORAM: HON’BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. Dhiraj Chawla, Advocate and
Ms. Mehak Sharma, Advocate for the petitioner.

Mr. Akhil Kamra, AAG, Punjab.

Mr. Ankit Kumar, Advocate and
Ms. Garima Nayyar, Advocate for respondent No.3.

NAMIT KUMAR, J.

1. The petitioner has filed the instant petition under Article 226 of the Constitution of India, seeking issuance of a writ of certiorari for quashing the impugned order dated 05.10.2023 (Annexure P-9), whereby the petitioner has been denied the pensionary benefits i.e. gratuity and proportionate pension. Further, seeking issuance of a writ of mandamus, directing the respondents to release proportionate pension to the petitioner



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with interest @ 18% per annum from 01.10.2016 till the actual date of disbursement.

2. Briefly stated, the facts of the case, as have been pleaded in the petition, are that the petitioner joined as Assistant Town Planner in the Improvement Trust Cadre on 26.12.2001. Subsequently, vide order dated 19.01.2005, he was posted as Assistant Town Planner in the Municipal Corporation Services. After rendering more than 14 years of continuous service, the petitioner submitted an application dated 01.10.2016 (Annexure P-1) to respondent No.3, seeking voluntary retirement with immediate effect, which was received in the office of respondent No.3 vide Diary No.2526/L dated 27.09.2016. The petitioner also deposited one month's salary amounting to Rs. 72,248/- in lieu of the requisite notice period and requested to credit all the service benefits including EPF, pension, leave encashment, gratuity, pending earned leaves pay, pending salary arrears etc. Consequently, respondent No.3, vide its letter dated 25.10.2016 (Annexure P-2), recommended to respondent No.1 to grant voluntary retirement to the petitioner. Thereafter, respondent No.1 forwarded the case of the petitioner to respondent No.2, who, vide order dated 14.12.2017 (Annexure P-3), accepted the voluntary retirement request of the petitioner under Rule 13(ii) of the Punjab Municipal Corporation Service (Recruitment and Conditions of Service) Rules, 1978 (for short 'the 1978 Rules') having regard to the recommendations made by respondent No.3. However, no further order qua release of proportionate pension was passed. The petitioner thereafter submitted a representation dated 21.06.2018 followed by reminder dated



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12.12.2018 (Annexure P-4) to respondents, with a request to immediately process his case for release of proportionate pension in terms of Rule 6.16 A(3) of the Punjab Civil Services Rules, Volume II, Chapter VI, along with arrears thereof, but no action was taken on the same. After making number of visits to the office of respondent No.2, the petitioner was finally paid the GPF amount of Rs.10,62,615/- through RTGS in his bank account on 16.08.2019, but neither proportionate pension nor gratuity was released to the petitioner. Thereafter, the petitioner again submitted a representation dated 02.11.2019 (Annexure P-6), followed by a legal notice dated 20.12.2021 (Annexure P-7) to the respondents for grant of proportionate pension and gratuity along with arrears w.e.f. November, 2016, but to no avail. Subsequently, the petitioner approached this Court by filing *CWP No.15663 of 2022 (Harpreet Singh Ghai Vs. State of Punjab and others)*, which was disposed of, vide order dated 22.07.2022 (Annexure P-8), with a direction to the competent authority to decide legal notice dated 20.12.2021 by passing a speaking order, within three months from the date of receipt of certified copy of the order and it was further directed that amount, if any, found due to the petitioner be released within two months thereafter. When the respondents had failed to comply with order dated 22.07.2022 (Annexure P-8) within a stipulated period, the petitioner filed a contempt petition before this Court. During the pendency of the contempt petition, a compliance affidavit on behalf of respondent No.3 was filed, wherein it was stated that pursuant to order dated 22.07.2022, passed by this Court, Respondent No.3 has passed speaking order dated



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05.10.2023 (Annexure P-9), rejecting the claim of the petitioner on the ground that respondent No.2, vide order dated 14.12.2017, had accepted the request of voluntary retirement of the petitioner as resignation under Rule 13(ii) of the Punjab Municipal Corporation Services (Recruitment & Conditions of Service) Rules, 1978. Hence, the instant petition.

3. Reply by way of an affidavit of Sh. Harpreet Singh Atwal, Deputy Secretary to the Government of Punjab, Department of the Local Government, Punjab, Chandgiarh, on behalf of respondents No.1 & 2, has been filed, wherein it has been stated as under :-

“3. xx xx xx The Answering Respondent had accepted the request of the petitioner not as Voluntary Retirement but as resignation as the petitioner did not fulfill the conditions for voluntary retirement and the Answering Respondent did not have a Voluntary Retirement Scheme. The petitioner being an employee was fully conversant with the rules and therefore, it is presumed that he knew about the repercussions of making an application to the concerned authority and what kind of benefits he will get and what benefits he had to forfeit.

4. That it is humbly submitted that the Answering Respondent did notify a Voluntary Retirement Scheme and thus petitioner did not apply under any such scheme rather the petitioner on his own accord after understanding the repercussion of giving an application for voluntary retirement, applied for voluntary retirement despite knowing the fact that he did not fulfill the conditions set forth for such a retirement as per the rules applicable to him. Thus, the petitioner is not entitled to avail voluntary retirement and the claim of gratuity and proportionate pension is not maintainable.

5. That it is respectfully submitted that as per Rule 13 of 'The Punjab Municipal Corporation (Recruitment and Conditions of Service) Rules 1978', the following provision has been made as under:-

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Therefore, in view of the above said provisions, the petitioner had served for 14 years 9 months 5 days in the Municipal Corporation, Moga. Furthermore, the date of birth of the petitioner is 11.10.1973 which shows that he was approximately 42 years at the time of giving the resignation. Thus, neither the petitioner had completed twenty years of service nor he had attained age of 50 years at the time of submission of resignation/voluntary retirement, therefore, the petitioner had retired prematurely as per the aforesaid statutory provisions. Even the Answering Respondents had accepted the request of the petitioner and treated the same as a resignation which is clearly specified in his orders. Consequently, the petitioner is not entitled to the pensionary benefits such as gratuity and proportionate pension as sought by the petitioner in the present petition. However, the due and admissible amount in respect of the General Provident Fund has already been paid to the petitioner and nothing remains due with the answering respondents. It is humbly submitted that this Rule is identical to Rule 3 of "The Punjab Civil Service (Premature Retirement) Rules, 1975". So these rules also do not apply in this case nor give any benefit to the petitioner.

6. That the claim of the petitioner has already been considered as the answering respondent had accepted the petitioner request as resignation from the service that is covered under rule 7.5(1) of Punjab Civil Services Rule Vol 1 Part 1 Of Chapter 7. The relevant part of the above said provisions are reproduced as under: -

7.5(1) "Resignation from a service or a post, unless it is allowed to be withdrawn in public interest by the appointing authority, entails forfeiture of past service.

Thus, in light of the same, the petitioner is not entitled for any benefits except the ones which are provided under the rules expressly.

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4. Separate reply on behalf of respondent No.3 has been filed, wherein also similar stand, as has been taken by respondents No.1 & 2, has been taken.



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5. Learned counsel for the petitioner has submitted that the claim of the petitioner for grant of proportionate pension and gratuity has been rejected, vide order dated 05.10.2023 (Annexure P-9), passed by the Commissioner, Municipal Corporation, Moga on the frivolous and fallacious ground that the request dated 27.09.2016/01.10.2016 made by the petitioner seeking voluntary retirement was accepted by respondent No.2, vide order dated 14.12.2017 (Annexure P-3), as resignation whereas the same was accepted as 'Voluntarily Retirement Resignation' and, therefore, the petitioner is entitled for *pro rata* pensionary benefits. He has further submitted that the petitioner, vide letter dated 27.09.2016/01.10.2016, had simply requested the respondents to grant him voluntary retirement and since the petitioner has rendered pensionable service, i.e., 14 years, 09 months and 05 days, therefore, he is entitled for proportionate pensionary benefits.

6. Per contra, learned State counsel assisted by learned counsel for respondent No.3, while reiterating the averments made in the reply filed on behalf of respondents No.1 & 2, has vehemently opposed the relief sought by the petitioner in the instant petition. He has submitted that the petitioner had rendered only 14 years, 09 months and 05 days of service and was about 42 years of age, when he submitted his application for voluntary retirement. Since he had neither completed 20 years of qualifying service nor attained the age of 50 years, therefore, he was ineligible for voluntary retirement under the applicable rules. Accordingly, the competent authority has rightly accepted his request for voluntarily retirement as a resignation, and



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therefore, the petitioner is not entitled for proportionate pension and gratuity.

7. I have heard learned counsel for the parties and perused the relevant documents.

8. Admittedly, the petitioner submitted a request dated 01.10.2016 (Annexure P-1) seeking voluntary retirement with immediate effect to respondent No.3, which was accepted, vide order dated 14.12.2017 under Rule 13(ii) of the 1978 Rules and consequently, payment of Rs.10,62,615/- on account of GPF was made to him.

9. It is the case of the petitioner that after rendering 14 years, 09 months and 05 days of continuous service, he took voluntary retirement and as such, he is entitled for proportionate pension and gratuity along with arrears as per Rule 6.16A(2) of the Punjab Civil Service Rules, Volume 2, Chapter VI.

10. Rule 6.16A of the Punjab Civil Services Rules, Volume II, Chapter VI is reproduced as under :-

6.16. A Government employee retiring in accordance with the provisions of these rules before completing the qualifying service of ten years shall not be entitled to any pension but he shall be entitled to a service gratuity calculated at the uniform rate of half month's emoluments for every completed six monthly period of service.

6.16-A (1) Full pension to a Government employee, who retires on or after the 1st day of December, 2011, in accordance with the provisions of these rules, shall be admissible after rendering a qualifying service of twenty-five years and shall be calculated at the rate of fifty per cent of emoluments or average emoluments, whichever is more beneficial to him:

Provided that the pension so calculated shall, in no case be, less than three thousand and five hundred rupees per month.



(2) In case the qualifying service of a Government employee is ten years or more but less than twenty-five years, the amount of pension shall be such proportion of the maximum pension admissible under sub-rule (1) as the qualifying service rendered by him bears to the maximum qualifying service of twenty-five years:

Provided that the pension so calculated, in no case, shall be less than three thousand and five hundred rupees per month.

Exception.—In the case of a Government employee who is a member of Punjab Civil Service (Judicial Branch), full pension, with effect from the 1st day of January, 2006, is admissible on the basis of a qualifying service of twenty years.”

11. From the above reproduction of Rule 6.16A(2), it is clear that if a government employee, who retires, with a qualifying service of at least 10 years but less than 25 years, he is not entitled to receive full pension, however, he is entitled for proportionate pension based on the length of his qualifying service but only in case of retirement and not resignation.

12. The services of the petitioner are governed by the ‘Punjab Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978’. Rules 12 and 13 thereof read as under:-

“12. Resignation from service. - (1) If a member of a Service wishes to resign from service, he shall give one month’s notice in writing to the appointing authority if he is temporary and three months’ notice if he is permanent. If such member fails to give notice or gives shorter notice, the appointing authority shall be entitled to recover one month’s salary or three months’ salary, as the case may be, with usual allowances or salary and allowances for the period by which the notice falls short of one month or three months, as the case may be, from such member in lieu of notice.



13. Retirement from service. - *Member of the Service shall retire on the afternoon of the last date of the month in which they attain the age of fifty-eight years:*

Provided that Government may re-employ a member of a Service after his attaining the age of superannuation upto the age of sixty years if considered necessary in public interest :

Provided further that -

(i) the appointing authority shall, if it is of opinion that it is in public interest to do so, have the absolute right, by giving a member of a Service prior notice in writing, to retire that member on the date on which he completes twenty-five years of service or attains fifty years of age or on any date thereafter to be specified in the notice.

(ii) the period of such notice shall not be less than three months and in case at least three months notice is not given or notice for a period of less than three months is given, the member shall be entitled to claim a sum equivalent to the amount of his pay and allowance at the same rate at which he was drawing them immediately before the date of retirement, for a period of three months, or as the case may be, for the period by which such notice falls short of three months.

(iii) any member of a Service may, after giving at least three months previous notice in writing to the appointing authority retire from service on the date on which he completes twenty years of service or attains fifty years of age or on any date thereafter to be specified in the notice, but no member of a Service under suspension shall retire from service except with the specific approval in writing of the appointing authority. ”



13. Rule 12 deals with 'resignation from service' and provides that if a member of a service wishes to resign from service, he shall give one month's notice in writing if he is temporary employee and three months' notice if he is permanent. It further provides that if such member fails to give notice or gives shorter notice, the appointing authority shall be entitled to recover one month's salary or three months' salary, as the case may be, with usual allowances or salary and allowances for the period by which the notice falls short of one month or three months, as the case may be, from such member in lieu of notice. Rule 13 deals with 'retirement from service' and provides that member of the service shall retire on attaining the age of 58 years. Rule 13 (i) confers upon the appointing authority the right, if it is of the opinion that it is in public interest to do so, to retire a member of the service by giving prior notice in writing on the date on which he completes 25 years of service or attains 50 years of age or on any date thereafter. Rule 13 (ii) deals with the period of notice required for such retirement at the instance of the appointing authority and provides for payment in lieu of the notice period where the requisite notice is not given. Rule 13 (iii) provides that a member of the Service may, after giving at least three months' previous notice in writing to the appointing authority, retire from service on the date on which he completes 20 years of service or attains 50 years of age or on any date thereafter specified in the notice, subject to the stipulation that a member under suspension shall not retire except with the specific approval in writing of the appointing authority.



14. A plain reading of the aforesaid provisions leaves no manner of doubt that the Rules make a clear distinction between ‘retirement at the instance of the appointing authority’ and ‘voluntary retirement at the instance of the employee’. Rule 13 (ii), on which reliance appears to have been placed in the order dated 14.12.2017 (Annexure P-3), merely regulates the ‘notice period and the consequence of shortfall therein’ in the case of retirement contemplated under sub rule (i). It does not, by itself, confer any right upon an employee to seek voluntary retirement. The provision enabling an employee to seek voluntarily retirement is contained in sub rule (iii). Thus, even if the order dated 14.12.2017 (Annexure P-3) is taken at its face value and the acceptance of the petitioner's request is treated as having been made under Rule 13(ii), such reference does not advance the case of the petitioner.

15. According to service jurisprudence, the expressions, “voluntary retirement”, and “resignation” convey different connotations. Voluntary retirement and resignation involve voluntary act on the part of the employee to leave service. Though both involve voluntary act, they operate differently. To understand the issue involved in the present case, the distinction and difference between the expressions ‘voluntary retirement’ and ‘resignation’ needs to be understood.

Difference between ‘Resignation’ and ‘Voluntary Retirement’

“The words “Resignation” and “Retirement” carry different meanings in common parlance. An employee can resign at any point of time, even on the second day of his



appointment, but in the case of retirement, he retires only after attaining the age of superannuation and in the case of voluntary retirement on completion of qualifying service.

In case of 'voluntary retirement' an employee is permitted to retire at any time on completion of the age of 50 years after giving 3 months' notice in writing to the appointing authority of his intention to retire. The other option is that an employee is permitted to retire at any time after he has completed 20 years of qualifying service. The stress is laid on the word "retire". No where does it read or anything more could be read into this provision to treat the word 'retire' at par with 'resignation'.

In nutshell, 'Resignation' can be tendered at any time, but in the case of voluntary retirement, it can only be sought after rendering prescribed period of qualifying service. Other Major distinction is that in case of the Resignation, normally retiral benefits are denied but in case of the Voluntary Retirement, the same are not denied. In case of the 'Resignation', notice period can be shortened, while in case of the 'Voluntary Retirement', three months' notice is mandated and permission of the employer concerned is a requisite condition and, therefore, 'Resignation' can be tendered irrespective of the length of service, whereas in the case of 'Voluntary Retirement', the employee has to complete qualifying service for retiral benefits."

16. On perusal of the case file, consideration of the service rules and scrutiny of the material on record, following points and issues have emerged:-

- (a) though the petitioner has applied for voluntarily retirement, vide letter dated 01.10.2016 (Annexure P-1), however, the same was not tendered under the Service Rules of the petitioner i.e. Rule 13 (iii) of 'The Punjab



Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978', which deals with 'voluntary retirement' mandating 03 months' advance notice, and in the said letter only one month's notice was given along with one month's salary and the same was tendered with immediate effect;

- (b) though the application for voluntary retirement of the petitioner was accepted as 'Resignation', vide letter dated 14.12.2017 (Annexure P-3), however, the same was accepted under Rule 13 (ii) of 'The Punjab Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978', which deals with notice period for premature retirement at the instance of the employer, whereas the same ought to have been accepted under Rule 12 of the 1978 Rules, which deals with 'Resignation';
- (c) the true translated copy of the letter dated 14.12.2017 (Annexure P-3) is connoting a different expression to the effect that '*the application of Sh. Harpreet Singh Ghai, Assistant Town Planner, Municipal Cooperation, Moga regarding voluntary retirement resignation is accepted*', whereas the original copy of said letter attached in vernacular language Punjabi clearly reflects that '*the application of Sh. Harpreet Singh Ghai, Assistant Town Planner, Municipal Cooperation, Moga regarding voluntary retirement has been accepted as 'Resignation'*'.

17. The judgments relied upon by learned counsel for the petitioner in ***Ganga Bishan Vs. State of Haryana, 1994(3) S.C.T. 154;*** ***State of Punjab Vs. Gurkeerat Singh, 2002(3) S.C.T. 623;*** which was subsequently followed in ***Mehar Singh Vs. State of Punjab & others, 2003(1) SCT 453*** and ***Haryana State through Collector, District Bhiwani Bhiwani Vs. Madan Pal Ahlawat, 2003 (1) SCT 327*** as well



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as judgment of this Court in ***Mewa Singh Pattar Vs. State of Haryana & others, 2015(3) S.C.T 239*** do not advance his case. While considering the similar controversy arising under the Punjab Civil Services Rules, the Hon'ble Supreme Court in ***Ghanshyam Dass Relhan Versus State of Haryana and others, 2009 (3) SCT 617; (2009) 14 SCC 506***, held that an employee claiming pensionary benefits must satisfy the requirements of the relevant pension rules, including the prescribed qualifying service. In the said case, the petitioner had worked in the office of Deputy Commissioner, Hissar, for 18 years, 2 months and 3 days and had submitted resignation after having been selected in 'Kurukshetra Central Bank Limited' after having applied through proper channel. The Apex Court, while considering the provisions of Rules 4.19, 6.16 (2) and 5.32-A of the Punjab Civil Services Rules, Volume-II, Part-II, rejected the claim for pro-rata pension and held as under :-

“25. Having considered the submissions made on behalf of the respective parties and the provisions of the Punjab Civil Services Rules, we are unable to accept Mr. Dholakia's submissions that in view of the provisions of Rule 4.19 (b) read with the latter portion of Rule 6.16 (2) of the aforesaid Rules, the petitioner will be eligible and entitled to pro rata pension having rendered more than ten years service which has been indicated as the qualifying service in the latter portion of the said Rule for the purpose of receiving pro rata pension.

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29. In our view, not having superannuated from government service, the petitioner cannot come within the said category and as submitted by Mr. Patwalia, his case



would instead be governed by Rule 5.32-A, which deals with resignation.

30. The said Rule clearly provides that a government employee is entitled on his resignation being accepted to a retiring pension subject to his completing qualifying service of not less than thirty years which in special cases could be reduced to twenty-five years. Since the petitioner has not completed the qualifying service of thirty years and since the service rendered by him with the Bank would not be counted towards government service, **the petitioner is not entitled to the benefit of pension under Rule 6.16 (2) and the High Court has rightly decided the issue.**”

18. Following the ratio laid down by the Hon’ble Supreme Court in the aforesaid judgment, a Full Bench of this Court in **State of Haryana and others Versus Dr. (Mrs.) Sudha Seth, 2011 (1) PLR 650**, while answering a reference, also observed as under:

“5. In our considered view, the benefit of Rule 6.16 (2) certainly cannot be available to an individual who had served his relationship with his/her employer by way of resignation. The aforesaid rule is applicable only to an individual who has retired from service. The benefit of Rule 6.16 (2) aforementioned can, therefore, be availed of only by a person who retires on superannuation or invalid and compassionate grounds.

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8. The aforesaid stance of the Government has to be resolved, in view of the conclusion expressed by us hereinabove, on the basis of Rule 5.32A(a) (extracted above). In our considered view, the aforesaid rule is not an absolute rule, inasmuch as, Rule 5.32A(a), extracted hereinabove, is an exception to the aforesaid rule. As such,



a person who has qualifying service of a minimum of 30 years prior to tendering his resignation, will still be entitled to retiral benefits. The aforesaid retiral benefits at the discretion of the State government, can extend to an individual, who has 25 or more years of qualifying service. Rule 3.17A extracted above will, therefore, result in forfeiture of service (in a claim for pension) where the qualifying service rendered by a Government employee is less than 25/30 years (as the case may be) as per Rule 5.32A (extracted above)."

19. This Court, on an earlier occasion, in **RSA-2965-2003** titled '**State of Haryana and others Vs. Rattan Dev Sabharwal**' decided on 15.05.2024, while following the law laid down by the Hon'ble Supreme Court in **Ghanshyam Dass Relhan** case (*supra*), had also declined to grant pensionary benefits in the absence of the requisite qualifying service.

20. Thus, the legal position enunciated by the Hon'ble Supreme Court in **Ghanshyam Dass Relhan's** case (*supra*), subsequently followed and reiterated by the Full Bench of this Court in **Dr. (Mrs.) Sudha Seth's** case (*supra*), and consistently applied by this Court in **Ram Lal Vs. State of Haryana, 2017(3) SCT 240** and **Rattan Dev Sabharwal's** case (*supra*), holds the field and squarely governs the controversy arising for consideration in the present case. The judgments relied upon by the petitioner, therefore, cannot be read in isolation or pressed into service contrary to the law subsequently declared by the Hon'ble Supreme Court and the Full Bench of this Court. Consequently, the claim of the petitioner for pensionary benefits, irrespective of the manner in which his service came to an end, cannot



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be sustained in the absence of fulfillment of the statutory conditions, including the requisite qualifying service, prescribed under the applicable pension rules.

21. In the present case, the petitioner admittedly had rendered only 14 years, 09 months and 05 days of service when he sought voluntary retirement from service. He was approximately 42 years of age at the relevant time. Therefore, he had neither completed the requisite 20 years of service nor attained the age of 50 years. Consequently, he did not satisfy either of the two alternative conditions stipulated in Rule 13 (iii) for exercising the right of voluntary retirement. The use of the expression "or" in Rule 13 (iii) makes it clear that an employee becomes eligible to seek voluntary retirement upon fulfilling either of the two conditions, namely, completion of 20 years of service or attainment of 50 years of age. However, the petitioner has not fulfilled any of the condition. The requirement of three months' previous notice is, therefore, not the only condition governing voluntary retirement. The notice requirement operates only when the employee is otherwise eligible to exercise the right of voluntary retirement under the Rules. Deposit of one month's salary in lieu of notice cannot substitute or dispense with the substantive eligibility requirement of completion of 20 years of service or attainment of 50 years of age. The fact that the petitioner had deposited one month's salary amounting to Rs.72,248/- also does not alter the legal position. The requirement of notice and the consequence of payment in lieu thereof cannot be construed as conferring a substantive right of voluntary retirement upon an employee who does not fulfill the



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basic eligibility conditions. The acceptance of his request for 'voluntary retirement' as resignation by the competent authority, cannot enlarge the scope of the statutory provision or confer upon him a right which was expressly conditioned upon completion of 20 years of service or attainment of 50 years of age. Further, the Department has also erred in dealing, treating and accepting the application of the petitioner under Rule 13(ii) of 1978 Rules, whereas the same ought to have been accepted as 'Resignation' under Rule 12 of 1978 Rules.

22. Further, the petitioner never questioned the order dated 14.12.2017 (Annexure P-3) and accepted the same without any protest or demur. It is also evident that, pursuant to acceptance of his request for voluntary retirement as resignation, the petitioner was released his GPF amount on 16.08.2019. It is not even the case of the petitioner that his request for voluntary retirement was erroneously accepted as a resignation. The said order has admittedly never been challenged by the petitioner. Rather, the petitioner has confined his claim to the grant of pro-rata pension and gratuity.

23. So, in nutshell, since the petitioner did not satisfy the eligibility conditions for 'voluntary retirement' prescribed under Rule 13(iii) of the 1978 Rules, the acceptance of his request for voluntary retirement from service could not acquire the legal character of voluntary retirement merely because the administrative order dated 14.12.2017 used such expression. The legal character of the acceptance of request has to be determined with reference to the statutory rules and not merely on the basis of the nomenclature employed in an administrative order.



24. Be that as it may, once the petitioner was having only 14 years, 9 months and 5 days of service at the time when he submitted his application to leave the service with immediate effect and just because he has mentioned the words 'voluntary retirement' in his application, does not entitle him to be benefited either under Rule 6.16 (2) of the Punjab Civil Services Rules, Volume-II, Part II, or to be covered under Rule 13 of 1978 Rules relating to Voluntary Retirement, entitling for retiral benefits with regard to pension on pro rata basis and/or gratuity as well, since the benefit of Rule 6.16 (2) can only be availed by a person, who retires on superannuation or invalid and compassionate grounds. Thus, this Court is unable to accept the submission that the petitioner's application should nevertheless be construed as one for voluntary retirement merely because he used those words in his letter. The law is well settled that the substance of a document and its legal consequences must prevail over its nomenclature. It is equally well settled that pension becomes payable only upon fulfilment of the statutory conditions prescribed by the applicable rules. Courts cannot direct payment of pension dehors the Rules merely because an employee has rendered a particular length of service. This Court also cannot lose sight of the fact that if the petitioner's contention is accepted, every employee who has completed ten years of service, but is otherwise ineligible for voluntary retirement would merely describe his resignation as "voluntary retirement" and thereafter claim pro-rata pensionary benefits. The qualifying conditions of twenty years' service or fifty years' age would become meaningless. The law is well settled that the substance of a document and its legal consequences must



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prevail over its nomenclature. A person cannot, by merely assigning a particular label to his request, create statutory rights which the governing Rules expressly deny and, therefore, the Court cannot permit statutory requirements to be circumvented by adopting terminology inconsistent with the governing Rules.

25. In view of the aforesaid discussion, this Court is of the considered opinion that acceptance of request of the petitioner as regards 'voluntary retirement', referred to in the order dated 14.12.2017, does not confer any independent right of voluntary retirement upon the petitioner. The impugned order dated 05.10.2023 (Annexure P-9), therefore, cannot be said to suffer from any illegality or perversity warranting interference by this Court in exercise of its writ jurisdiction. The competent authority has rightly declined to grant pensionary benefits to the petitioner, as he had not fulfilled the statutory conditions for voluntary retirement.

26. For the foregoing reasons, the present petition is found to be devoid of merit and is, accordingly, dismissed.

27. Before parting with the judgment, this Court deems it appropriate to make certain observations for consideration at the administrative level. The controversy in the present case appears to have arisen essentially on account of the manner in which the petitioner's request seeking "voluntary retirement" was dealt with by the concerned authorities. The petitioner, admittedly, did not fulfill the statutory conditions prescribed for voluntary retirement under the applicable service rules, yet his request came to be processed and eventually accepted though as resignation by referring to a provision



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which did not confer upon him any such right. The subsequent dispute regarding his entitlement to pensionary benefits has, therefore, culminated in the present litigation.

28. It is difficult to overlook that the application submitted by the petitioner seeking voluntary retirement is dated 01.10.2016, whereas the same is stated to have been received in the office of respondent No.3 on 27.09.2016 vide Diary No.2526/L. This apparent discrepancy in the dates of the application and its receipt, coupled with the fact that the request for voluntary retirement was processed and accepted though as resignation, without the petitioner's eligibility under the applicable rules being duly examined, calls for appropriate administrative scrutiny.

29. The present case also highlights the importance of maintaining a clear distinction between "voluntary retirement" and "resignation", as the two expressions have distinct legal consequences under the service and pension rules. A request seeking voluntary retirement cannot be casually processed or accepted without first examining whether the employee fulfills the statutory conditions prescribed for such retirement. Likewise, an application for resignation cannot be treated as one for voluntary retirement merely on account of the nomenclature used by the employee.

30. It is, therefore, considered appropriate to place the following observations and suggestions before the State Government for consideration at the administrative level, with a view to preventing recurrence of such instances and ensuring strict adherence to the applicable statutory rules:



- (i) The State Government may consider issuing appropriate instructions to all Departments/ Authorities of the State to ensure that every request seeking voluntary retirement or resignation is examined strictly in accordance with the statutory service and pension rules applicable to the concerned employee before any order accepting such request is passed.
- (ii) The competent authority, before accepting a request for voluntary retirement, shall specifically verify and record the employee's eligibility with regard to the requisite qualifying service, notice period and all other conditions prescribed under the applicable Rules. The order accepting such request should clearly mention the precise statutory provision under which the voluntary retirement is being accepted.
- (iii) The authorities shall ensure that the expressions 'voluntary retirement' and 'resignation' are not used interchangeably or inconsistently in the same order or while processing the same case. The legal consequences flowing from the two modes of cessation from service being materially different, the nature of cessation must be clearly determined and recorded in accordance with the applicable Rules.
- (iv) In cases where an employee seeks voluntary retirement, but does not fulfill the statutory conditions prescribed therefor, the competent authority shall not accept such request as voluntary retirement merely on the basis of the terminology used in the application. The employee's request shall be dealt with strictly in accordance with the applicable statutory provisions, and the

consequences thereof shall be clearly communicated to the employee.

31. It is clarified that the aforesaid observations are intended only as administrative suggestions for strengthening the mechanism governing cases of voluntary retirement and resignation and for ensuring strict compliance with the statutory service rules.

32. The Registry is directed to forward a copy of this judgment to the Chief Secretary to Government of Punjab; the Chief Secretary to Government of Haryana; and the Chief Secretary, UT, Chandigarh for consideration and for taking such appropriate administrative action as may be deemed necessary.

19.08.2026
Kothiwal/mkkoundal/Vimal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No