

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.10911 of 2015 (O&M)

Date of Decision: 06.07.2015

Lal Chand

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. Lalit Gupta, Advocate for the petitioner(s)

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP Nos.10911, 10924 & 11133 of 2015 as common questions of law and facts are involved in these cases. For brevity, the facts are being extracted from CWP No.10911 of 2015.

(2) The petitioner assails the instructions dated 30.04.2015 (Annexure P8) issued by the Punjab Government, Finance Department regarding extension in service of the employees of Punjab Government Boards/Corporations. The above-stated instructions have superseded the previous set of Instructions dated 20.09.2013, and *inter alia*, stipulates that those officials who have been awarded major penalty and/or have committed any grave misconduct during the period of extension or those facing departmental or criminal proceedings are not entitled

to seek extension in service in terms of the previous Government policy.

(3) The petitioner joined Markfed – a Punjab Government organization as an Accounts Officer in the year 1983. He was subjected to disciplinary proceedings through a regular domestic enquiry and the charges having been proved, he was ordered to be downgraded to two stages in his time pay scales vide order dated 25.02.2015.

(4) The petitioner was due for retirement on attaining the age of 58 years i.e. the age of superannuation on 28.02.2015. The petitioner was allowed to continue in terms of the previous Govt. Instructions but on adoption of the new set of instructions dated 30.04.2015, Markfed has relieved the petitioner on the premise that in view of major penalty inflicted on him, he is not entitled to seek extension in service.

(5) It is in this backdrop that the petitioner has laid challenge to the above-mentioned instructions.

(6) We have heard learned counsel for the petitioner in support of the core issue, namely, that the instructions are liable to be struck down being arbitrary, having been introduced retrospectively and also being in conflict with Articles 14 & 16 of the Constitution.

(7) In our considered view none of these evils can be attributed to the subject Instructions. The Instructions have not

been applied retrospectively as the benefits drawn by an employee on the extension in service have not been withdrawn. The new set of instructions have been applied with immediate effect and are indeed prospective in nature.

(8) Since extension in service beyond the age of retirement is a sort of incentive, reward or encouragement, it cannot be said that the instructions are arbitrary in nature merely because an official with chequered service record is denied such benefits.

(9) Similarly, the employees having clean slate record on one hand and those who are subjected to major disciplinary action, constitute to two separate and distinct classes, therefore, the vice of discrimination cannot be read into the instructions.

(10) Faced with this, learned counsel points out and rightly so that against the punishment order dated 25.02.2015, the petitioner has filed departmental appeal(s) which is still pending consideration before the Board of Directors/Chairman. He submits that if the petitioner's appeal is allowed and the punishment order is set aside in that event, he is entitled to seek extension of service.

(11) There appears to be substance in the petitioner's contention. Needless to say that if the very basis of denying extension in service disappears, the petitioner's claim for such benefit would require re-consideration at the hands of the competent authority. We thus dispose of this writ petition,

without expressing any views on merit, with a direction to the Board of Directors/Managing Director of Markfed to decide the appeal(s) filed by the petitioner(s) at the earliest but in all circumstances before 31.08.2015. In the event of exoneration, the case of the petitioner(s) for extension of service would be considered within two weeks subject to other eligibility conditions.

(Surya Kant)
Judge

06.07.2015
vishal shonkar

(P.B. Bajanthri)
Judge