

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

**CWP No.11693 of 2015
Reserved on:28.08.2015
Date of decision: 02.09.2015**

Bhagwan Dass

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.R.K.Dadwal, Advocate, for the petitioner.

Mr. H.S.Sethi, Addl.A.G., Punjab
and Mr.Rakesh Verma, Sr.DAG, Punjab.

G.S.SANDHAWALIA, J.

1. Challenge in the present writ petition is to the order dated 25.11.2014 (Annexure P5) and the order dated 31.03.2015 (Annexure P6) whereby the petitioner's request for 2nd extension in service has been denied. The reasoning given in the said orders is that the petitioner already stood relieved after the 1st extension on 30.09.2014 and the subsequent extension in service could not be done, at that point of time, on the request which was made on 17.10.2014.

2. The petitioner had approached this Court in CWP No.184 of 2015 in which a direction had been issued on 07.01.2015 that there was no enforceable right. However, the Government would be at liberty to consider the prayer of the petitioner. Resultantly, the order dated 31.03.2015 has been passed whereby the same stand was reiterated.

3. In the written statement filed, plea taken in defence by the respondents was that the case of the petitioner was considered sympathetically and the petitioner had been already conveyed the said decision and had been asked to submit his pension papers. The service of the petitioner was not required and

therefore, his case for the 2nd extension in service was rejected by the competent authorities.

4. Counsel for the petitioner has relied upon the judgment of this Court in CWP No.23706 of 2012 titled *Satpal Jindal & another Vs. State of Punjab & others*, decided on 15.01.2013, wherein the benefit of extension had been granted and the impugned order was set aside and a direction had been issued that the petitioners were held entitled to one years extension in service, in terms of the circular dated 08.10.2012.

5. A perusal of the said judgment would go on to show that the petitioners therein had submitted their option within the stipulated time-frame and in such circumstances, it was held that they were entitled to the benefit of extension of one year in service, in terms of the circular dated 08.10.2012. The petitioners therein had unblemished service record and in the absence of any chargesheet pending against them, this Court had issued the said direction. It was also noticed that as per the circular dated 08.10.2012, the option had to be given within the stipulated time-frame and once the option had been availed within the stipulated time, then it was binding upon the Government.

6. The picture in the present case is different. As noticed, the petitioner had opted for the 1st extension in service which was granted to him but for the 2nd extension, he subsequently made a request not within the prescribed period and the denial order has been passed on that account. The circular dated 08.10.2012 provides that the option had to be exercised 3 months prior to the date of retirement. Thereafter, other circulars dated 22.01.2013, 20.09.2013, 30.10.2014 & 07.01.2015, have also been issued.

7. The issue of extension in service has already been settled by a Co-ordinate Bench of this Court in CWP No.3826 of 2015 titled *Romesh Garg Vs. State of Punjab & others*, decided on 24.04.2015, wherein it was held that

extension is a mere concession and the employee has no legal right. The issue of consideration of Rule 3.26 as substituted vide notification dated 08.10.2012 and the instructions of even date alongwith the instructions dated 22.01.2013, 20.09.2013, 30.10.2014 and 07.01.2015, were subject matter of consideration. The said issue has been dealt with by the Co-ordinate Bench, by holding as under:

“In view of the above, it can safely be held that the petitioners have no vested right to seek extension in their services beyond the age of superannuation. To grant or not to grant extension is as per the discretion of the employer.

Further, since extension in service beyond the age of superannuation cannot be claimed as a matter of right, it virtually is by way of a concession given by the employer to its employee and once such extension is held to be by way of a concession, then there is no reason in law why the same cannot be unilaterally withdrawn for justifiable reasons and in public interest.”

8. The same view has been upheld in LPA No.776 of 2015 titled *Ashok Arora Vs. State of Punjab & others* decided on 20.05.2015. The Division Bench in the said case has further approved the reasoning given in the case of *Romesh Garg (supra)* and held that it was a correct statement of law and no elaborate discussion is required.

9. Accordingly, the present writ petition is hereby dismissed being bereft of any merit.

02.09.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE