

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

**C.M. No.491 of 2015 in/and
C.W.P. No.20032 of 2014
Date of Decision : 23.03.2015**

Haryana Power Engineers Association and another

..... Petitioners

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ashwani Talwar, Advocate
for the petitioners.

Mr. Ashok Singh Chaudhary, Addl.A.G., Haryana.

Mr. B.S. Rana, Sr. Advocate
with Mr. Rajinder Paul, Advocate &
Mr. P.S. Poonia, Advocate
for the respondent No.2.

Mr. Gagandeep Rana, Advocate
for the respondent No.3.

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?

AJAY TEWARI, J. (Oral)

C.M. No.491 of 2015

For the reasons recorded, the application is allowed. Written statement filed on behalf of respondent No.2 as well as Annexure R-2/1 are taken on record. Copy has been supplied.

C.W.P. No.20032 of 2014 (O&M)

Written statement filed on behalf of respondent No.1 is taken on record. Copy has been supplied.

At the very outset, learned counsel for respondent No.3 states that he adopts the reply filed by respondent No.2.

By this petition the petitioner has challenged the extension granted to the respondent No.3.

The respondent No.3 was appointed as Director (Whole time) of the respondent-Corporation by order dated 04.10.2013 (Annexure P-9). At that time rules (Annexure P-6) were in force as per which there was no specific procedure which had to be undergone before appointing a person as whole time Director. On 10.07.2014 the said rules were amended and it was laid down that henceforth the whole time Director would be appointed through open competition. Rule 4 is however important and the same is quoted herein below:-

“4. Two years with effect from the date of appointment or till date of his/her superannuation, whichever is later.

An extension for another one year would be considered in case of outstanding performance of the incumbent.”

On 01.09.2014 an order (Annexure P-7) was passed extending the term of respondent No.3 for another year. It is this action which has been challenged by way of present writ petition on the ground that this is in violation of the notification dated 10.07.2014. In reply the stand taken is that the notification dated 10.07.2014 mandated open selection only for fresh appointment and there was no requirement for open competition for granting extension. It was in this position of law that the extension was

granted to the respondent No.3.

Learned counsel for the petitioners has argued that actually the real reason which weighed with the respondents for granting extension to the respondent No.3 is the fact that at that time the Government of Haryana increased the age of retirement from 58 to 60 years.

On the other hand, learned counsel for the respondents has accepted the aforesaid fact and has asserted that apart from the age of retirement having been increased it was also reported that the respondent No.3 was sincere and had immense technical knowledge and his service would be beneficial for the respondent-Corporation. It was on this ground that the extension was granted.

In my considered opinion, the stand of the respondents is meritorious. Had it been a case where the respondent No.3 had been given a fresh appointment, no doubt the parameters laid down in notification dated 10.07.2014 would have had to be fulfilled but since it was a case of extension those parameters of open competition were not required. The argument that it was only because of the age having been increased his term was extended was also not entirely correct as his service record was also considered. In the circumstances, no relief can be granted to the petitioner.

Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 23, 2015

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**(AJAY TEWARI)
JUDGE**