

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 20590 of 2015 (O&M)

Date of decision : December 17, 2015

Krishan Singh

.....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Jagdeep Bains, Advocate
for the petitioner.

Mr. Anil Sharma, Addl. AG, Punjab.

Mr. Vikas Sharma, Advocate
for respondents No. 4 and 5.

LISA GILL, J.

Petitioner is aggrieved of action of respondent No. 2 in not affording extension in service to the petitioner after his superannuation on 30.09.2015. It is submitted that petitioner has been discriminated against inasmuch as he is governed by Punjab State Co-operative Marketing and Federation Employees (Common Cadre Service Rules), 1990 (hereinafter referred to as 'Rules), therefore, he is entitled to extension in terms of resolution dated 28.02.2013 (Annexure P-5). Once benefit of extension is available to

other employees of Markfed, same could not have been denied to the petitioner only for the reason that he is in a diminishing cadre.

Learned counsel refers to order dated 24.12.2008 and 20.02.2009 (Annexures P1 and P2) to submit that after merger of various Marketing-cum-processing Societies including that of Co-operative Marketing-cum-Processing Society, Dehati where the petitioner was initially appointed, petitioner was governed by the aforementioned rules. Other employees of Markfed have been afforded the benefit of extension in service. In such a situation, petitioner could not be discriminated against and he is entitled to the same benefit.

Learned counsel for the respondents, however, refute the petitioner's claim and pray for dismissal of this writ petition.

It is not disputed that petitioner joined service with Co-operative Marketing Society, Dehati on 02.01.2008. Said marketing society alongwith others was amalgamated with Markfed w.e.f. 24.12.2008 as reflected in Annexure P-1. It is specifically mentioned in amalgamation order that the post held by the employees like the petitioner would be personal to them and shall be considered to have been abolished after their retirement. As per Annexure P-2, it is specifically mentioned as under:-

“1. All the employees mentioned above of Cooperative Marketing societies are absorbed in Markfed w.e.f. 24.12.2008 in equivalent rank and pay. However, these posts will be deemed to be personal posts and shall stand abolished as soon as any of these employees retirees,

resigns, dies or his services are terminated in accordance with law.

2. They will be governed under the Punjab State Cooperative Supply and Marketing Federation Employees (Common Cadre) Service Rules, 1990 as amended from time to time w.e.f. 24.12.2008.”

Furthermore, perusal of notification dated 27.02.2013 providing for extension of one year in service of officers/officials of Public Sector Undertakings, Autonomous bodies and Co-operative societies reflects that this benefit shall not be extended to employees of those departments where service cadre has been declared as diminishing cadre. Meaning thereby that where due to the retirement/voluntary retirement/resignation or due to death of employees or due to any other reasons, as a result of abolition of posts, cadre is diminishing benefit of extension of service is not available.

The very concept of diminishing cadre means that the post in question comes to an end and stands abolished on retirement/voluntary retirement/resignation or death etc. of the employee, therefore, no vested right whatsoever accrues to the petitioner to be granted extension in service. It is not disputed that the petitioner indeed belongs to a diminishing cadre, therefore, argument that he has been discriminated against viz-a-viz other employees of Markfed is not sustainable. No instance has been pointed out of any employee belonging to the diminishing cadre, who has been afforded to the benefit of extension in service.

Furthermore question in hand is no longer res integra. This Court vide decision dated 24.09.2013 in CWP No. 21333 of 2013 has held that an employee in a diminishing cadre does not have any enforceable right in his favour for extension in service.

Instructions dated 27.02.2013 (Annexure P-4) are categoric to the extent that this benefit cannot be extended to persons in a diminishing cadre. In a similar situation, this Court in **Shashi Kant and others versus State of Punjab and others 2014 (2) SCT 774** has held that denial of extension in service on the ground of employees being in the diminishing cadre is justified. Such interpretation has been upheld by a Division Bench of this Court in LPA No. 537 of 2014 and connected appeals decided on 10.11.2014.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the action of the respondents in denying extension of service to the petitioner after his attaining the age of superannuation on 30.09.2015.

Consequently, this writ petition is dismissed.

December 17, 2015
rts

(Lisa Gill)
Judge