

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

CWP No.24699 of 2015

Date of decision:27.11 2015

Vijay Kumar Sharma

... Petitioner

Versus

The State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rajinder Sharma, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. No interference in this case is called for in view of the recent elucidation of the law by the Division Bench of this Court in **CWP No. 23811 of 2015 titled as 'Ajaib Singh & ors. vs. State of Punjab & ors.'**, rendered on November 20, 2015. The challenge to Rule 2 of the Punjab Civil Services Rules (Second Amendment) Rules, 2015, as notified on October 30, 2015, has been repelled and the rule has been upheld. After the amendment an employee serving during the extension in service cannot be promoted. The convening of the DPC and placement of the petitioner at Sr. No.10 in the list of 28 candidates for promotion from the post of Assistant Engineer to Sub-Divisional Engineer in the Irrigation Department, Punjab, prior to the amendment will not confer an accrued, vested or crystallized right to promotion during extension which can be activated retrospectively.

2. It may be recorded that the petitioner stands retried from

service on reaching the age of superannuation on October 30, 2015. The petitioner may have a right to opt for extension of service in terms of the prevailing State policy because that part of the scheme is not disbanded but the rights which have been taken away by the amendment dated October 30, 2015 cannot be re-created in favour of the petitioner by the intervention of the Court and by issuance of a writ of mandamus to the respondents since the grant of benefit of promotion and denial thereof is purely an executive function and a matter of public policy where judicial review ordinarily does not reach. It is a trite law that promotion is not a fundamental right nor are mere chances of promotion which can be taken away by statutory rule or amended policy. More so, when the promotional vacancies occur after the amendment comes into force even though the consideration takes place earlier to the amendment even then no enforceable right accrues to demand promotion as of right. Principle of promissory estoppel does not apply. The petitioner has played his innings and is retired and can no longer return to the pitch in a promoted avatar blocking the chances of promotion of juniors still in service or nearing retirement who are in pads awaiting their turn to bat.

3. In any case, the challenge to the *vires* of the amended rule has been blunted by the Division Bench in *Ajaib Singh's case* (supra) and therefore, there is no longer any substance in this petition, which is ordered to stand dismissed as no longer maintainable.

(RAJIV NARAIN RAINA)
JUDGE

27.11.2015
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