

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

Civil Writ Petition No. 24820 of 2015(O&M)

Date of Decision: December 4 , 2015.

Paramjit Singh Ghuman

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. G.S.Ghuman, Advocate
for the petitioner.

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?

LISA GILL, J.

Petitioner in this case was due to retire on 28.01.2014. He was affording extension in service for one year vide order dated 21.02.2014 Annexure P-4 in terms of instructions dated 08.10.2012, Annexure P-3. Petitioner was afforded subsequent extension for another one year vide order dated 27.02.2015, Annexure P-6. Period of extension would come to an end on 29.02.2016.

Petitioner is aggrieved of subsequent notification and circular both dated 30.10.2015 Annexures P-7 and P-8 respectively as well as order

dated 10.11.2015 Annexure P-9. Vide Annexure P-9 issued by the Government of Punjab, Department of Local Government, Commissioner, Municipal Corporation, Ludhiana has been directed to ask the petitioner for furnishing option in respect to extension for the second year in terms of instructions dated 30.10.2015, which provide that the employees, who were granted sanction, would not be entitled to:-

- (i)Promotion;
- (ii)Benefit of Assured Career Progression Scheme;
- (iii)Annual increment;
- (iv)Any revision of pay made by the State Government.

Learned counsel for the petitioner submits that as per office orders dated 08.10.2012 and 20.09.2013 Annexures P3 and P5, an employee granted extension in service would be eligible for promotion as well as the applicable salary. As per the said communications dated 08.10.2012 and 20.09.2013 Annexures P3 and P5, respectively, such an employee would also be entitled to the benefits under the Assured Progression Scheme as well as annual increments and revision of pay. Such benefits cannot be withdrawn by the State being conditions of service. Petitioner cannot be deprived of aforesaid benefits in this manner by the respondents. Directing the Commissioner, Municipal Corporation to ask for the petitioner's option yet again is illegal and arbitrary.

Controversy in hand is no longer *res integra* and stands settled by Division Bench of this Court vide decision dated 20.11.2015 in CWP

No.23811 of 2015 (Ajaib Singh and others v. State of Punjab and others).

In Ajaib Singh's case (supra) claim of the petitioners therein was for promotion though they were working after superannuation, their service having been extended in terms of abovesaid notification dated 08.10.2012 and others. Challenge was laid to Rule 2 of the Punjab Civil Services Rules (Second Amendment) Rules, 2015 as notified on 30.10.2015 whereby employees whose services had been extended, were rendered ineligible for promotion. Petitioner's in Ajaib Singh's case (supra) had been granted extension prior to the amendment in October, 2015. It was noted by the Court that a fresh option is required to be given by an employee already on extension. It is specifically held by the Division Bench that extension in service does not entitle or vest an employee with a right to benefits available to the employees who have not yet superannuated. It is observed that:-

“The argument of the petitioners is that once their services were extended, the amended Rule as on 30.10.2015 will not be applicable. We do not find any merit in such argument. The normal date of age of retirement is 58 years in the case of Group ‘A’, ‘B’ and ‘C’ employees. It is only as per the proviso, the services of a Government employee can be extended to two years on yearly basis that too on submission of an option by the concerned employee. The Rule prescribes the age of superannuation and also the condition of extension specifically provide that extension in service will not entitle to the benefit of promotion, Assured Career Progression, annual increment and any revision of pay made by the State Government. Therefore, the petitioners, who have opted for extension cannot claim such benefits. Once the petitioners have opted for extension in terms of the amended Rule, they have to accept all the conditions contained therein as well. The extension in service is neither automatic nor compulsory. It is

an option of the employee. Therefore, if extension has been claimed by the petitioners, they have to accept all the conditions of extension as well.”

In view of the above, this writ petition is dismissed being devoid of any merit.

December 4 , 2015.
'rts'

(LISA GILL)
JUDGE