

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.2954 of 2015(O&M)

Reserved on:28.08.2015

Date of decision: 02.09.2015

Raj Kumar

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

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

Mr.Aman Bahri, Addl.A.G., Punjab
Mr. H.S.Sethi, Addl.A.G., Punjab
Mr.A.P.S.Mann, Addl.A.G., Punjab
Mr.L.S.Virk, Addl.A.G., Punjab
Mr.Rakesh Verma, Sr.DAG, Punjab
and Mr.Pankaj Mulwani, DAG, Punjab.

G.S.SANDHAWALIA, J.

1. Challenge in the present writ petition is to the order dated 12.01.2015 (Annexure P5) whereby the benefit of extension of service had been rejected and he was also relieved on 31.01.2015, on the ground that some cases were pending against him under the Punjab Civil Services (Punishment & Appeals) Rules, 1970 and also complaints in the negative list of the Vigilance Department, in view of the instructions dated 08.10.2012, 20.09.2013 and 30.10.2014.
2. Counsel for the petitioner has placed Annexures P15 to P19 on record to submit that the petitioner had been exonerated and the charges had been dropped and has placed reliance upon the Division Bench judgment of this Court in LPA No.776 of 2015 titled *Ashok Arora Vs. State of Punjab & others* decided on 20.05.2015, to submit that the case of the petitioner can be reconsidered.
3. However, in the written statement, filed by the State Government, it has been specifically mentioned that there is a chargesheet dated 03.02.2014, which is pending against the petitioner and the matter was considered by the

Committee in the light of instructions dated 30.10.2014. Reference has also been made to suspension order in another case on 11.07.2013 and show cause notice dated 12.10.2012.

4. No replication has been filed to contradict the factum of chargesheet dated 03.02.2014. In such circumstances, the present case is covered by the judgment passed 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.”

The said view was upheld by the Division Bench of this Court in the case of *Ashok Arora (supra)*.

5. Accordingly, the present writ petition is dismissed, being covered by the above said case. The interim order dated 20.02.2015 stands vacated. However, it is made clear that the petitioner shall be entitled to all financial benefits, as per the terms of extension, for the period which he enjoyed the interim protection from 20.02.2015, granted by this Court.

02.09.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE