

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

**CWP No.8483 of 2015
Reserved on:28.08.2015
Date of decision: 02.09.2015**

Nirmal Singh

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

Present: Mr.L.S.Mann, 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 29.04.2015 (Annexure P9) whereby the petitioner's request for extension in service beyond 58 years, was declined.

2. A perusal of the impugned order would go on to show that reference has been made to the instructions dated 27.02.2013 (Annexure P10). The said instructions provide for extension of one year in the retirement of the employees of Public Regional Department, Self Employed Department and Cooperative Societies and the said instructions was further based on the notification dated 08.10.2012, whereby Rule 3.26 of Punjab Civil Services Rules, has been amended.

3. A Division Bench of this Court in CWP 11994 of 2013 titled Lal Chand Goyal Vs. Punjab State Agricultural Marketing Board & others, decided on 10.02.2014, considered the said controversy regarding the right of extension and it was, accordingly, held that the extension is not a matter of course and no Government employee could claim any right and in the absence of any legal and

vested right, no fault can be found in the denial of extension of one year beyond the age of superannuation. Relevant portion of the judgment reads as under:

“We have heard counsel for the parties. The primary contention of counsel for the petitioner is as there is no provision in the Rules of 1988 dealing with the age of superannuation, in terms of Rule 13 of the Rules, the Rules as applicable to the employees of the Government of Punjab from time to time are to govern the members of the respondent-Board. The contention is that as the amended Rule 3.26 of the CSR provides for extension in service to Punjab Government employees beyond the age of superannuation, similar extension in service is liable to be granted to employees of the respondent-Board.

This argument completely misses out the import of the proviso to Rule 3.26 (a) of the CSR. It is not the case where the age of superannuation has been increased from 58 years to 60 years by virtue of the amendment. Through the proviso an enabling provision has been made that in case the State Government is of the opinion that it is necessary or expedient in public interest, then the service of a Government employee or class of Government employee may be extended beyond the date of retirement not exceeding two years. The underlined words in the said proviso clearly indicate that extension in service beyond the age of superannuation is not a matter of course. Any grant of extension has to be preceded by formation of an opinion by the government that it is necessary or expedient in public interest to grant the extension. Vide instructions dated 08.10.2012, the Governor of Punjab in view of the amendments in Clauses (a) and (b) of Rule 3.26 of CSR Volume I Part I as amended, approved the extension of one year in service to Punjab Government employees. Evidently, this was the conscious decision of the Government in consonance with the provisions aforesaid. If the Government had not taken this decision dated 08.10.2012, no Punjab Government employee could claim any right that he or she should be granted extension in service of one year. The Government employees got the benefit of extension in service because of the conscious decision of the Government reflected in the instructions dated 08.10.2012.”

5. Accordingly, keeping in view the observations of the Division Bench, the present writ petition is dismissed.

02.09.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE