

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

CWP No.946 of 2015(O&M)
Reserved on:28.08.2015
Date of decision: 02.09.2015

Harbhajan Singh

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

Present: Mr.Manish Dadwal, 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.

CM No.10554 of 2015

Application for placing on record Annexures A1 and A2 (Colly.) and for exemption from filing certified copies of the same, is allowed, in view of the averments made in the application, which are duly supported by an affidavit. Said documents are taken on record.

CWP No.946 of 2015

1. Challenge in the present writ petition is to the order dated 14.01.2015 (Annexure P1) whereby the benefit of extension of one year of service to the petitioner has been denied, on account of the fact that the petitioner had been chargesheeted under Rule 8 of the Punjab Civil Services (Punishment & Appeals) Rules, 1970 and an enquiry report had been received from the Enquiry Officer and the case was still pending, in view of the instructions dated 30.10.2014. The petitioner, accordingly, stood retired w.e.f. 15.01.2015.

2. Counsel for the petitioner has vehemently submitted that the enquiry report has come in his favour and therefore, the petitioner is entitled for the benefit of extension of service and has placed reliance upon the judgment of the Division Bench of this Court in LPA No.776 of 2015 titled *Ashok Arora Vs. State of Punjab & others* decided on 20.05.2015. Reliance has also been placed upon Annexures A1 & A2.

3. Counsel for the State has rightly submitted that the petitioner does not stand exonerated yet and the disciplinary proceedings are still pending. A different view can be taken by the competent authority and there can be dissent against the enquiry report. He has pointed out that admittedly, criminal cases have been lodged by the Vigilance Bureau and as per the instructions dated 30.10.2014, pendency of criminal cases was sufficient for declining the request of extension of service. Admittedly, in the cases pending against the petitioner, cancellation reports have been submitted on 09.04.2015 by the prosecution (Annexure A2), which are yet to be considered by the concerned Court.

4. The issue of extension in service has already been settled 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.”

5. The same view has been upheld in the case of *Ashok Arora (supra)*. The Division Bench in the said case has further approved the reasoning given in the case of *Romesh Garg (supra)* and held that it was a correct statement of law and no elaborate discussion is required.

5. Faced with this situation, counsel for the petitioner is not in a position to controvert the said fact.

6. Accordingly, the present writ petition is dismissed, being covered by the above said cases. However, since the petitioner's 1st extension expired on 31.10.2014 and he was retired from 15.01.2015, he would be entitled for his financial benefits for the period he performed his duties.

02.09.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE

CWP No.946 of 2015 (O&M)

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SAILESH RANJAN
2015.09.04 10:29
I attest to the accuracy and
integrity of this document

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

CWP Nos.946, 2954, 8129, 8483, 9657, 9843, 10384, 12225 & 12253 of 2015

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