

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

LPA No.793 of 2015 (O&M)

Date of Decision:-21.09.2015

State of Punjab and another

.....Appellants

Versus

Dalip Singh

.....Respondent

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN.

Present:- Mr. B.S. Chahal, DAG Punjab.

Mr. Saurabh Arora, Advocate
for respondent.

SATISH KUMAR MITTAL, J.(Oral)

The State of Punjab through its official has filed this intra-court appeal under Clause-X of the Letters Patent, against the order dated 21.1.2015, passed by the learned Single Judge, whereby the writ petition (CWP No.915 of 2015) filed by the respondent seeking quashing of the order dated 16.12.2014 denying the benefit of extension in age of superannuation from 58 to 60 years was allowed in terms of the decision in CWP No.13425 of 2012 (Tarvinder Singh V. State of Punjab and others) decided on 16.1.2013, and the appellants were directed to release the consequential benefits to the respondent expeditiously within a period of two months.

We have heard learned counsel for the parties.

In this case the respondent was working as Superintendent Grade-II, in Technical Education and Industrial Training Department, Punjab, and on attaining the age of 58 years, he retired on 31.3.2014. Respondent moved an application before The Principal, Industrial Training Institute, Sunam, where he was working that he was not willing in taking extension for one year in service as per the Government instructions because of his ill health. Thereafter, on 31.3.2014 he was allowed to be superannuated. Undisputedly, the entire retiral benefits were also released to the respondent. Thereafter, on 1.12.2014 after more than eight months and after receiving all the retiral benefits, he made an application to the Principal Secretary, Government of Punjab, Department of Technical Education and Industrial Training, to grant two years extension to him under the Policy instructions dated 19.11.2014 being a handicapped employee. The said request was declined to the respondent. Then he filed the aforesaid writ petition for setting aside the said order and granting him extension being handicapped person. It has not been disputed before us that in the writ petition the petitioner did not mention anything about his letter written on 2.12.2013 stating that he does not require any extension due to ill health and also with regard to the fact that he has received all retiral benefits after his retirement. Without disclosing all these facts he got his writ petition disposed of in terms of the decision in CWP No.13425 of 2012 (Tarvinder Singh Versus State of Punjab), in limine, without notice to the appellants.

By filing an appeal against the said order the

appellants have reproduced the letter dated 2.12.2013 written by the respondent to the Department. During the course of hearing learned counsel for the respondent does not dispute this fact that he had made a request not to grant him the extension and thereafter he retired from service and received all service benefits.

In our view the respondent has concealed the material facts from the Court and no explanation has been given in this regard. Further, once the respondent himself has already got retired and did not show his interest in getting his service extended and also received all the retiral/service benefits, he can not be granted extension, as no unwilling worker should be retained in service. If these facts would had been brought before learned Single Judge, the fate of the writ petition would have been otherwise.

In view of these facts, this appeal is allowed and the order passed by learned Single Judge is set aside and the writ petition is dismissed. Keeping in view the fact that the respondent is a handicapped person, we restrain ourselves from imposing costs.

**(SATISH KUMAR MITTAL)
JUDGE**

21.09.2015
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**(MAHAVIR S. CHAUHAN)
JUDGE**