

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25679 of 2015
Decided on : 12.02.2016

Tarsem Lal

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present : Mr.Parvez Chugh, Advocate, for the petitioner.

G.S. Sandhawalia , J. (Oral)

The petitioner challenges the order dated 29.05.2015 (Annexure P8) as well as order dated 07.08.2015 (Annexure P10) whereby he was ordered to be retired w.e.f. 31.05.2015, in view of the pendency of the charge-sheet against him. The petitioner's request for reconsideration has been rejected by the subsequent order.

It is not disputed that the petitioner, who was working with the respondent-Federation as Assistant Operator at Kapurthala Plant, was to retire on 23.09.2014 from the respondent-Federation. In view of the Government instructions, the petitioner was given an extension in service on 08.09.2014 for a period of one year, w.e.f. 24.09.2014. During the extension period, the charge-sheet dated 18.02.2015 (Annexure P5) under Rule 6-B and Rule 10 of the Punjab State Co-operative & Marketing Federation Employees (Punishment & Appeal) Rules, 1990 (for short, the '1990 Rules') was issued against him. In the meantime, instructions dated 30.04.2015 (Annexure P7) came into force

whereby a decision was taken by the Government that where there was major penalty imposed or where a charge-sheet had been issued under Rule 8 of the Punjab Civil Services (Punishment & Appeals) Rules, 1970, for major penalty, the extension in service would not be granted. As per Clause 3 of the said instructions, review was to be done of such cases where extension had been granted and in cases of employees who were covered under Clause 2, the extension was to be withdrawn from the end of the last date of the said month. Resultantly, keeping in view the said fact, the petitioner's case was reconsidered and he was retired w.e.f. 31.05.2015 vide order dated 29.05.2015 (Annexure P8).

The petitioner challenged the said order before this Court and the writ petition was withdrawn on 01.07.2015, with liberty to file a representation before the respondents, who were directed to pass a speaking order and after affording opportunity of hearing, decide the same within a period of one month. Resultantly, the impugned order dated 07.08.2015 has been passed. The Additional Managing Director of the respondent-Federation has noticed the said facts, as have been reproduced above and it was noticed that the reply to the charge-sheet had also been filed. He has, accordingly, referred to Clause 5 of the instructions dated 30.04.2015 also that where there is grave misconduct, even the extension in service is liable to be withdrawn, without any notice.

The said instructions were subject matter of challenge before the Division Bench of this Court and have been upheld in ***CWP No.10911 of 2015 titled as 'Lal Chand Vs. State of Punjab and others'***, decided on 06.07.2015. The Division Bench has held that the purpose of the instructions is to categorise the State employees into 2 different categories, one having a clean slate record and the other who are submitted to major disciplinary action.

The issue of right of extension has already been considered in the cases of Government employees, in CWP-3847-2015 titled *Iqbal Mohammad Vs. State of Punjab & others* and CWP-3826-2015 titled *Romesh Garg Vs. State of Punjab & others*, decided on 24.04.2015, wherein it has been held that extension in service is a mere concession and the same can be unilaterally withdrawn regarding employees who are facing disciplinary action for major penalty. The said view was upheld by the Division Bench in LPA-776-2015 titled *Ashok Arora Vs. State of Punjab & others*, decided on 20.05.2015, by holding that the view taken by the Learned Single Judge was correct statement of law and no elaborate discussion was required. Another Division Bench of this Court in CWP-11994-2013 titled *Lal Chand Goyal Vs. Punjab State Agricultural Marketing Board & others*, decided on 10.02.2014, also held in the same terms that there is no legal right vested in an employee to seek extension in service.

The fact remains that there is a charge-sheet dated 18.02.2015, issued against the petitioner, under Rule 6-B of the 1990 Rules, which provide for levy of a major penalty. Once that is so, then the impugned order withdrawing the extension in service was very much within the ambit of the instructions which have been upheld by the Division Bench of this Court and thus, both the orders impugned do not suffer from any infirmity which would warrant interference.

In such circumstances, there is no scope for interference, under Article 226 of the Constitution of India. Consequently, the present writ petition is dismissed in limine.

FEBRUARY 12, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE