IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision:20.5.2016

1.
CWP No.3778 of 2016(O&M)

Paramjit Singh … Petitioner

Versus

State of Punjab & ors. ... Respondents

2.
CWP No.14223 of 2015

Mehar Chand & ors. … Petitioners

Versus

State of Punjab & ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Saurabh Arora, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl.A.G., Punjab.

Mr. Gaurtam Thapar, Advocate,
for respondent No.4.

Mr. Navneet Jindal, , Advocate,
for respondent No.5.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of the above cited cases as common questions of law and fact are involved in them which can conveniently be decided by a common order. It may be noted at the outset that the only difference between the two is that in CWP No.3778 of 2016, the petitioner has approached this Court before reaching the age of

superannuation while in CWP No.14223 of 2015, the petitioners have approached this Court after they have attained the age of 58 years and stood retired on reaching the age of superannuation. The facts are taken from CWP No.3778 of 2016.

2. Sukhdev Singh Gill was the Administrative Officer of the Corporation, superannuating on December 31, 2014. He was granted extension in service in terms of the policy of the Punjab Government adopted by the Corporation. He continued in his first extension up to December 31, 2015. However, in the meanwhile, the Punjab Government wrote letter dated April 17, 2015(Annex. R-1) has issued a direction to the respondent-Corporation not to grant extension to its retiring employees due to the financial crunch faced by the Corporation. The post of Administrative Officer is a single isolated and promotional post. The fact that the Government letter dated April 17, 2015 and the letter that followed on the same subject dated June 12, 2015 came in the way while Sukhdev Singh Gill was serving in his first year of extension, his extension could not be curtailed quite obviously to avoid litigation and breach of contract.

3. The petitioner superannuated on February 29, 2016 when he turned 58 years of age, the age of retirement. The petitioner approached this Court shortly before he was to retire with the grievance that he had been asked to draw his pension papers in anticipation of retirement and therefore it was apparent that his request for extension in service in terms of the policy was to be denied. His fundamental lament was that his chances of promotion to the post of Administrative Officer being next

below Sukhdev Singh Gill were put paid when extension was granted to his senior and he was continuing. He should be compensated for that loss by grant of similar treatment.

4. It has been argued by learned counsel for private respondent No.5 that assuming Sukhdev Singh Gill was in second extension despite the letters dated April 17, 2015 and June 12, 2015, he would continue in service till December 31, 2016 superannuating the petitioner meanwhile from the posts of Deputy Administrative Officer of the Corporation, the feeder to the coveted post of Administrative Officer.

5. There is no doubt that the petitioner is next in seniority to Sukhdev Singh Gill and below the petitioner is the 5th respondent in the feeder cadre for promotion to the post of Administrative Officer. The defence of the Corporation on the issue of extension in service is that it is suffering from financial losses. The pleaded defence may appear somewhat strange that despite suffering financial losses, the Corporation is still wrote letters to the State Government asking permission to give extension in service to its employees and then resigning themselves to their fate succumbing after shooting two letters but the Government restrained them from granting extensions beyond retirement. It is also not disputed at the bar that after dated April 17, 2015, no person has been granted extension in service in the corporation. The stray cases are those where extension was granted prior to April 17, 2015 but that would not be relevant to confer on the petitioner a claim for extension in service as a matter of right.

6. Mr. Saurabh Arora points out that as a matter of fact it cannot

be said that the Corporation is suffering from financial losses to such an extent that extension should not be granted. It is not possible to make any comment on the financial status of the Corporation and it would suffice for the writ court to accept the stand of the Government that the Corporation that its financial health does not allow granting extensions in service to defray salary overheads. This is also part of the scheme of extension introduced by the Punjab Government laying down policy that financial losses would be relevant consideration for refusing extensions in service by Boards, Corporations, Local Bodies and State Undertakings.

7. By the same yardstick the petitioners in both the petitions claim extension in a chain reaction. To recapitulate, Sukhdev Singh Gill was granted extension on December 31, 2014 and therefore, the petitioners cannot seriously complain that they lost opportunity of promotion on the date of retirement of Gill on reaching the age of superannuation. As a matter of fact, the petitioner has been promoted without intervention of the Court as per turn only in January, 2016 as Administrative Officer as per seniority. Though the promotion was for a short period before the petitioner superannuated.

8. Since the letter dated April 17, 2015 and June 12, 2015 are not under challenge, it would not be possible to grant any relief to the petitioner/s by upsetting the policy decision of the State Government in denying authority to the Corporation to extend services of any employee in view of the economic status and the dire financial position it is facing while it has no means to generate income and runs only on expenditure to carry out its purposes towards the welfare of the scheduled caste

community through land development measures. In the circumstances explained by the respondents any interim order or its continuance would not be justified as it would cast an unbearable additional burden which can easily be avoided.

9. In these circumstances, it is not possible to issue any further direction to continue with the operation of the ad interim order by making it absolute. Third party rights have intervened of higher value since the 5th respondent is next in waiting for promotion and his promotion ought not to be held up by continuation of the interim order in the light of the decision taken by the Government on April 17, 2015. However, if any person is granted extension by the Corporation, who has superannuated after April 17, 2015, the petitioners in both the petitions will be at liberty to approach the Court again or to revive these petitions claiming parity of treatment and monetary relief, as advised. Since the petitioner has worked and discharged duties and responsibilities of Administrative Officer meanwhile although under stay orders, his grievance that salary for the last three months not paid may be genuine. Applying the principle of quantum meruit, the Corporation is directed to pay salary to the petitioner in CWP 3778 of 2016 alone before a formal order is passed reliving him from duties.

10. The affidavit filed in Court by the Corporation in terms of directions issued by this Court explaining as to who bore the burden of costs, is taken on record. It is disclosed that Devinder Singh Clerk has been held liable to pay Rs.10,000/- as costs from his pocket. This appears to be wholly unfair passing the buck on a poor clerk and thus a direction

is issued to the Corporation to refund Rs.10,000/- to Mr. Devinder Singh forthwith and to account for the expenditure under the appropriate head of litigation expenses.

11. With these observations and directions, both the petitions stand disposed of. Relief is declined.

(RAJIV NARAIN RAINA)
JUDGE

20.5.2016
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