

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

LPA No.237 of 2016 (O&M)

Date of Decision : 12.02.2016

Paramjit Singh Ghuman

.... Appellant

Versus

State of Punjab and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present:- Mr. G.S. Ghuman, Advocate for the appellant.

HARINDER SINGH SIDHU, J.

This intra Court appeal under clause X of the Letters Patent has been filed against the judgment dated 04.12.2015 whereby the writ petition (CWP No.24820 of 2015) filed by the appellant challenging the notification dated 30.10.2015, instructions issued vide letter dated 30.10.2015 and order dated 10.11.2015, has been dismissed.

Though there is delay of 11 days in filing the appeal and the appellants have filed application (CM No.472-LPA-2016) for condoning the said delay, yet we have heard learned counsel for the appellant on merits.

The appellant who was working as Joint Commissioner, Municipal Corporation, Ludhiana was due to retire on 28.02.2014 on attaining the age of superannuation of 58 years. Vide instructions dated 08.10.2012 the Punjab Government employees were given one year extension in service. As per these instructions during the extended service period, the employee would be eligible to draw the salary as per Clause (B)

of Rule 3.26 of the Punjab Civil Services Rules, Vol. 1, Part-1 meaning

thereby that he would draw salary equal to the last salary which will be payable to him on the date of retirement in extended service . It was also provided that, if any promotional post became vacant, the concerned employee would be eligible to be considered for promotion on that post.

The appellant was granted extension in service for one year vide order dated 21.02.2014 in terms of the aforesaid instructions. Subsequently, vide order dated 27.02.2015, he was granted another year of extension in service from 01.03.2015 to 29.02.2016, in terms of Government letter dated 07.01.2015.

On 30.10.2015, the Punjab Civil Services (Second Amendment) Rules, 2015 (for short 'the 2015 Rules') were notified wherein it was provided that a Government employee whose service is extended shall not be entitled to (i) promotion; (ii) benefit of Assured Career Progression; (iii) annual increment and (iv) any revision of pay made by the State Government. The Government employees who were already on extension were also required to give a fresh option for extension indicating compliance with these conditions. Vide order dated 10.11.2015, the appellant was asked to give his option.

Aggrieved, the appellant filed the writ petition for directions to quash the notification dated 30.10.2015, instructions issued vide letter dated 30.10.2015 and order dated 10.11.2015 asking him to furnish the option.

Before the learned Single Judge, it was contended that as the second extension had already been granted to appellant before the amendment of the 2015 Rules, the condition that the Government employee whose service is extended shall not be entitled to promotion etc.

would not apply to him. However, the learned Single Judge relying on

decision of Division Bench of this Court in CWP No.23811 of 2015 (**Ajaib Singh and others v. State of Punjab and others**), dismissed the writ petition. In Ajaib Singh's case (supra), the same notification dated 30.10.2015 had been challenged and the same ground was urged that amended Rule would not be applicable to an employee whose services have been extended before the amendment of the Rules. This contention was negated.

Learned counsel for the appellant has not been able to demonstrate how his case is any different from the decision in Ajaib Singh's case (supra) and how in the face of the judgment, the relief prayed for could be granted?

We fully agree with the decision of the Division Bench of this Court in Ajaib Singh's case (supra) that extension in service is neither automatic nor compulsory. It is an option given to an employee and if extension is made subject to certain conditions, the same have to be accepted as a part of extension.

Accordingly, there is not merit in the appeal and the same is dismissed.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

12.02.2016
Atul