

Civil Writ Petition No.20087 of 2017

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

Sr. No.125

**Civil Writ Petition No.20087 of 2017
Date of Decision: September 06, 2017**

SURTA SINGH AND OTHERS

...PETITIONERS

Versus

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. R.K. Chopra, Senior Advocate with
Mr. Gaurav Sharma, Advocate,
for the petitioners.

JASPAL SINGH, J.

By virtue of the instant civil writ petition preferred under Articles 226/227 of the Constitution of India, petitioners have sought the issuance of an appropriate writ, direction or order, quashing the circular dated October 08, 2012 (P-2) to the extent of denying the annual increment to the petitioners and by issuing a writ of mandamus to direct the respondents to grant the annual increment to the petitioners for the extended

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period of service in view of the Rule 4.7 of the Punjab Civil Services Rules Vol.I, Part-I as well as amendment made in the Rule 3.26 vide Notification dated October 30, 2015 (P-4).

2. The contention of learned counsel for the petitioners is that petitioners are employees of the Punjab Government and they were to retire on attaining the age of 58 years and after extension of two years in their services at the age of 60 years. The services of the petitioners were governed by the statutory rules i.e. Punjab Civil Services Rules. Rule 4.7 provides that an increment shall ordinarily be drawn as a matter of course, unless it is withheld. Such an increment can only be withheld of a Government employee by the competent authority, if his conduct of the employee has not been found good or his work has not been satisfactory. The State of Punjab issued circular dated October 08, 2012, providing extension in service to the employees of the Punjab Government for a period of one year, with further rider that employee will draw his salary equivalent to the last pay drawn on the date of his retirement and all allowances will be admissible from time to time as per rules.

3. In continuation of aforesaid letter dated October 08, 2012, Government of Punjab granted another extension in service to the Government employees for a further period of one year with no change in the remaining conditions as detailed in the aforesaid letter dated October 08, 2012. Petitioners retired from service during the year 2014 and 2015 after availing extension in service for a period of two years in view of aforesaid instructions.

4. Learned counsel for the petitioners further contends that no

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amendment in the rules was made so far as grant of annual increment is concerned. Under Rule 4.7 Rules, petitioners are entitled to annual increment as a matter of right as there is nothing adverse against them. However, subsequently State of Punjab issued Notification dated October 30, 2015 (P-4), whereby an amendment in Rule 3.26 was carried out thereby providing that Government employee whose service is extended in view of aforesaid instructions shall not be entitled to annual increment. Prior to the issuance of Notification dated October 30, 2015 (P-4), a clarification was issued by the State Government on January 22, 2013, whereby it was clarified that during the period of extension, if any, employee is promoted to higher post, the salary drawn by such employee on the promoted post shall be counted for the purpose of determining his pension and extended period of service shall also be treated as qualifying service towards pension. Similarly, benefit with regard to earned leave was also extended. Though, all service benefits were extended to the employees during the period of their extension of service but to the utter surprise, annual increments were denied to the employees during the extended period of service.

5. Learned counsel for the petitioners further submits that once all other benefits have already been given, there is no justifiable reason for non-granting the annual increments to the petitioners during the extended period of their service.

6. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but find the same without any legal and factual substance.

7. Undoubtedly, Government of Punjab granted extension in

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service to its employees belonging to Group A, B, C and D for a period of one year vide instructions dated October 08, 2012 (P-2) subject to certain conditions laid down therein. There was no specific provisions for grant of annual increment during the period of extension. The petitioners while accepting the terms and conditions laid down in the aforesaid instructions dated October 08, 2012 (P-2) sought the extension for a period of one year, which was subsequently extended for another year vide letter dated September 20, 2013 (P-3) issued by the Government of Punjab. Certain other conditions were also made with regard to service benefits. Through instant petition, petitioners have claimed their entitlement for annual increment during the period of their extension of service in view of aforesaid instructions. No doubt, Rule 4.7 of Service Rules provides for an annual increment but they cannot claim the benefit provided in aforesaid Rule as a matter of right especially in the circumstances that they have sought the extension in their service in the light of aforesaid instructions subject to the conditions stipulated therein. If, aforesaid conditions were not suitable to the petitioners then they should not have sought the extension in their service but no such protest as has been ventilated through the instant petition was ever lodged with the State of Punjab. There is no pick and choose and every Government employee who seeks or have sought the extension in the light of aforesaid instructions regarding extension shall have to abide by the same. It is well settled proposition of law that the law shelters everyone under the same light and should not be swirled for the advantage of a few. There was some object behind the extension of service period from 58 years to 59 years and then 59 years to 60 years for the

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retirement of an employee. There are not only the petitioners, who have not been granted the benefit of annual increments, rather no provision has been made by the Government for the reasons best known to it for non-providing of annual increments during the extended period of service. Thus, there is nothing un-constitutional or discriminatory in the instructions dated October 08, 2012 (P-2).

8. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, it stands dismissed.

September 06, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**