

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

CWP No. 7501 of 2016 (O&M)
Date of decision: 10.3.2017

Pran Mehta

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. K.L. Arora, Advocate,
for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab.

Mr. A.K. Bajaj, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

1. The petitioner herein seeks to challenge the order dated 29.3.2016, whereby it has been ordered that the petitioner would retire on 31.3.2016 on attaining the age of 58 years and for grant of extension in service to the petitioner beyond 58 years in terms of Rule 3.26 (A) and (B) of the Punjab Civil Services Rules, Volume-I, Part-I.

2. The petitioner herein was appointed as Junior Engineer on 4.11.1985 with the Punjab Transport Department and was posted at Head Office, Chandigarh in Construction Wing. On closure of the said Construction Wing, the petitioner was posted at Punjab Roadways Depot, Hoshiarpur-I. Ultimately, he was permanently absorbed as Junior Engineer in the Municipal Corporation, Jalandhar, against a vacant post and was

given status of Class II employee. As the petitioner was to retire on 31.3.2016, he gave a representation dated 1.1.2016 to the Superintendent Engineer, Municipal Corporation, Jalandhar, requesting for extension in service of one year as per Rule 3.26 (A) and (B) of the Punjab Civil Services Rules, Volume-I, Part-I. He gave another representation dated 16.3.2016, wherein it was mentioned that he had already given request dated 1.1.2016 to the Superintendent Engineer, Municipal Corporation, Jalandhar, for extension in service, followed by yet another representation dated 29.3.2016. On learning that the matter has not been sent to the Government for extension, the petitioner approached the Department and came to know that on account of pendency of charge sheet against him, the matter has not been referred. Aggrieved against that action, the instant writ petition has been filed seeking quashing of the impugned order dated 29.3.2016 and also stay of operation of said order, by which he shall be deemed to have been retired from service.

3. Learned counsel appearing on behalf of the petitioner submits that initially the petitioner joined the Transport Department and thereafter joined the Municipal Corporation as Junior Engineer on 14.9.1999 and was permanently absorbed therein on 14.1.2002. He further submits that his case for extension was not considered because Inquiry No. 7 of 1996 was pending. The inquiry alleged to have initiated in 1996, to which the petitioner filed a reply but no Inquiry Officer was appointed and as such the said inquiry was not decided even after a period of 20 years since its institution and as such no fault could be attributed to him. It is further submitted that same charge sheet was also issued to two other officials,

namely Mr. Sanjeev Bhatia and Mr. Sudhir Narang, and charge sheet was dropped and they were exonerated and, as such the charge sheet deserves to be set aside and extension in service deserves to be to be given to him.

4. Per contra, learned counsel for the respondents contends that the petitioner cannot be granted any benefit of extension in service on account of Instructions bearing No. 22/2/2013-3 F.P. 2/83 dated 30.4.2015 which has been issued for extension in service. It is specified therein that those employees against whom order has been passed for issuing the charge sheet or charge sheet has been issued or major penalty has been given three years prior to the date of retirement or where charge sheet have been framed by the court of competent jurisdiction will not be considered for extension in service.

5. I have heard the learned counsel for the parties.

6. As per reply filed the case of the petitioner could not be considered on account of pendency of charge sheet. The petitioner was served with a charge sheet dated 6.3.2009 under Rule 8 of the Punjab Punishment & Appeal Rules, 1970. Upon receiving reply from the petitioner, an Inquiry Officer was deputed to hold the inquiry against the petitioner and the Inquiry Officer, vide its report dated 19.3.2014, held all the charges levelled against the petitioner in the charge sheet stands proved. Thereafter, a show cause notice of inquiry report was sent to the petitioner as to why punishment order should not be passed to which the petitioner submitted his reply and he was given a personal hearing. On giving personal hearing, the competent authority, vide order dated 5.8.2016 has exonerated the petitioner. Since there were proceeding pending against the

petitioner on the date of retirement which only culminated in exoneration, vide order dated 5.8.2016, after the petitioner had superannated, the respondent could not have been granted extension in terms of the amended provisions of Punjab Civil Services Rules.

7. In view of the fact that on the date of retirement of the petitioner, an inquiry was pending against the petitioner, and as per the amended provisions of the Punjab Civil Services Rules, an employee against whom a charge sheet is pending shall not be given extension, this writ petition is dismissed.

10.3.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No