

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

LPA No.360 of 2017 (O&M)

Date of Decision : 17.08.2017

Ramesh Kumar

....Appellant

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

...

Present: Mr. Inderjit Sharma, Advocate
for the appellant.

...

MAHESH GROVER, J. (Oral)

The appellant is in appeal against the judgment of the learned Single Judge dated 23.02.2017. He was a superannuated employee of Municipal Council, Gurdaspur and seeks extension of one year service as per the notification of the Punjab Govt. dated 27.02.2013, appended to the writ petition as Annexure P-1.

The learned Single Judge declined to interfere by noticing that no person from the category of service to which the appellant belongs was engaged beyond the age of superannuation by granting an extension. The reason stated for non-engagement was the financial crunch being faced by the Municipal Council. Before us it has been urged that the finding of the learned Single Judge is erroneous as few persons similarly placed as the

appellant have been granted extension and thus the action of the Council in not granting extension to the appellant is clearly discriminatory.

By way of CM-3194-LPA-2017 the appellant has placed on record certain material including one resolution by the Municipal Council expressing the state of affairs and shortage of employees as one of the primary reason for granting extension of one year service beyond the age of superannuation. The resolution states that such extension be granted across the board without compelling the employees to seek extensions.

After hearing the learned counsel for the appellant, we are of the opinion that these are decisions to be taken by the Municipal Council itself and the court would not intervene in the absence of any enforceable right in favour of the appellant. The rules prescribed the age of superannuation and the policy of the State of Punjab as applicable to the Council would at best be an enabling device to grant extension. Violation of the policy to deny extension would not result in enforceable right in favour of the appellant. The resolution itself reveals a thought process which has to precede a decision to engage or not to engage an employee beyond the age of superannuation. Financial constraints and necessity of human resources would all be issues to be factored in while granting extension. We, therefore, are not

inclined to accept the prayer of the appellant even on the plea of discrimination which would be available only if there is an enforceable right. The attitude of the Council which the appellant refers to as pick and choose can be explained to the contingencies the Council may be confronted with i.e. financial constraints and necessity of human resources.

While declining interference, we, however, leave the question open for the Council that in case they deem it appropriate to grant extension to the appellant and any other person for that purpose, the dismissal of the writ petition as also the present appeal should not be considered to be a hindrance.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

17.08.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No