

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

**CWP No. 24928 of 2015
Date of decision : 30.10.2018**

Santosh Kumari & ors.Petitioners

versus

Indian Council for Child Welfare Chd & ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Kharb, Advocate
for the petitioners.

Mr. K.K. Gupta, Advocate,
for the respondents

RITU BAHRI, J. (Oral)

The present petition is for quashing order dated 22.07.2015/30.10.2015 (P-9 colly) vide which the petitioners were ordered to retire before 60 years of age without extending 01/02 years of service.

The petitioners were appointed on regular basis for the post of Balsevikas to run the creche for the children of unemployed couples who working in the ICCW in the Union Territory at Chandigarh. The details of their appointment has been mentioned in Annexure P-1. Thereafter, Chandigarh Administration has notified the traditions of service of U.T Chandigarh Employees Rules, 1992. The Government of India, Ministry of Home Affairs notified the 'Conditions of Service of U.T. Chandigarh Employees Rules, 1992 vide notification dated 13.01.1992, which provides that the conditions of service of persons appointed to the Central Civil Services and posts in Group A to D under the administrative control of the Administrator of U.T Chandigarh shall be

the same as the conditions of service of persons appointed to corresponding posts in Punjab Civil Services and shall be governed by the same rules and orders. The respondent-authority had adopted the same rules of Chandigarh Administration, which are applicable to the services of the petitioners, vide its order dated 07.12.2012 (Annexure P-2).

The grievance of the petitioners before this Court is that now the department has sent retirement orders on 22.07.2015/30.10.2015 to the petitioners w.e.f the date, the petitioners attained the age of 58/59 years. Petitioners were not granted the extension of two years and no notice was issued to them before passing the impugned order.

On the other hand, learned counsel for the respondents at the very outset submitted that the present petition is liable to be dismissed as respondent No. 1 is a registered Society under the Societies Registration Act, 1860 as an NGO. It has its own administrative set up and the employees working in the Council are governed by its own Service Rules, namely "Conditions of Service Rules of the Employees of Indian Council of Child Welfare, UT Branch Chandigarh, 2006 and under this Rule, 2006, the age of retirement of all the employees of the Indian Council for Child Welfare has been provided as 58 years.

Learned counsel for the respondents has further argued that the Rules and Regulations, Instructions of Government of Punjab or that of Chandigarh Administration governing the service condition of their own respective employees are not applicable to the employees of the respondent-Council. The Honorary Secretary of the Council granted extension in service to the petitioners in anticipation of approval of the executive Committee of the Council but the Executive Committee declined to grant such approval and

resolved to abide by the Service Rules of 2006. Those who were granted extension in anticipation of approval, were decided to be relieved.

Learned counsel for the respondents has referred to order dated 02.06.2011 passed by this Court in **CWP No. 783-2011** whereby the Indian Council for Child Welfare (U.T. Branch) Employees Union had challenged the part of Rule 14 of Conditions of Service Rules of the Employees of Indian Council of Child Welfare, UT Branch Chandigarh, 2006, which deals with retirement of the employees. The petitioners are raising plea that unguided powers have been given to the competent authority to increase the age of retirement beyond 58 years. However, on a statement given by learned counsel appearing for U.T, Chandigarh wherein it has been stated that the above said power given to the competent authority has been deleted from the Rules. Thus, the above said petition was rendered infructuous.

Thus, the petitioners cannot get any benefit of the judgment dated 10.12.2009 passed in **CWP No. 6301-2009 titled as Mrs. Sheela vs. Indian Council for Child Welfare and others** wherein it was held that as per 2006 Rules of U.T. Chandigarh Branch, its employees are entitled to continue in service till the age of 60 years and the same cannot be curtailed by the competent authority by refusing to grant extension at the age of 58 years.

Recently, this Court in **CWP No. 5106-2014 titled as Inder Kaur vs. Indian Council for Child Welfare, decided on 15.11.2017** has dealt with a case of petitioner who was retired on 21.10.2013. The writ petition was dismissed on the ground that it is a settled principle that the right of extension would only be on the basis of some legal statutory right. There is no rule of the respondent-Society whereby persons beyond the age of 58 years would be allowed to continue.

In view of the above factual position, the writ petition stands dismissed.

October 30, 2018
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>