

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

**C.M. No. 4407 of 2018 in/and
Civil Writ Petition No. 22685 of 2017 (O&M)
Date of Decision: 18.04.2018**

Anil Gupta and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Sarthak, Advocate for
Mr. Animesh Sharma, Advocate
for the **applicants**-petitioners.

Mrs. Ishneet Kaur, Assistant Advocate General, Punjab
for respondent No. 1/State.

Mr. Yash Paul Khullar, Advocate
for respondent Nos. 2 & 3/PSPCL

JASWANT SINGH, J.

CM No. 4407 of 2018

Present application filed by the counsel for petitioners is for preponing the date of hearing.

Upon notice, counsel for the parties have no objection if the present application is allowed and the date of hearing is preponed from 06.07.2018 and the case is fixed for today itself.

In view of above, present **application** is **allowed**, the date of hearing is preponed from 06.07.2018 and the case is taken up for hearing today itself.

MAIN CASE

1. Petitioners-Anil Gupta, Pawan Kumar Chawla, Yadwinder Singh, Surender Pal Goel have filed present petition under Article 226 and

227 of the Constitution of India seeking setting aside of order/letter dated

11.07.2017 vide which representation of the petitioners seeking extension of service has been rejected. The petitioners have further prayed that they may be granted extension of 2 years service in view of Policy circular dated 27.02.2013 (**Annexure P-3**) of the State Government.

2. State of Punjab vide Notification dated 16.04.2010 bifurcated Punjab State Electricity Board into 2 corporations namely Punjab State Power Corporation Ltd. and Punjab State Transmission Corporation Ltd. The Services of employees of both Corporations (for short 'Corporation') are governed by Main Services Regulation, 1972. The petitioners were originally appointed with PSEB and after its bifurcation became employee of Corporation. As per Main Services Regulation, 1972, the retirement age of employees was 58 years which was at par with other employees of Punjab Government.

3. The State Government vide Notification dated 08.10.2012 amended Punjab Civil Service Rules to allow extension of two years beyond the date of superannuation which is 58 years and pursuant to said power, one year extension was granted to all the employees. The State Government again vide Notification dated 30.09.2015 amended rules to allow extension of superannuation age of employees and vide Notification dated 30.10.2015 granted two years extension to all its employees.

4. Employees of various Corporations/Boards filed writ petitions before this Court and this Court in CWP No. 3635 of 2013 directed respondents to pass speaking order and State Government vide policy circular dated 27.02.2013 (**P-3**) clarified that benefit of extension in service would apply to all Boards and Corporations however, in the said circular it

was also clarified that extension shall not be granted where financial position of Board/Corporation is affected.

5. The petitioners through instant petition has claimed that they should be granted extension of two years like other Punjab Government employees because as per policy circular dated 27.02.2013 (P-3) benefit of extension of superannuation age is also available to employees of Corporations/Boards.

6. Per contra argument of respondent is that employees of Corporation are governed by Main Services Regulation, 1972 qua pay, allowances, leave and other general conditions of service and Corporation is not bound to adopt instructions issued by State Government. The Board of Directors in its 25th meeting passed the resolution that period of service of employees of the company shall not be extended and as per policy circular dated 27.02.2013 (P-3), it is Board/Corporation who has to decide extension in view of financial constraints. The Corporation after considering opinion of Finance Division, Legal Division and Administrative Division found that extension of service would affect financial position of the Corporation and accordingly Board resolution was passed.

7. After having heard arguments of both the counsels and scrutinized record of the case, this Court finds that present petition is bereft of merits and deserves to be dismissed. The conceded position as emerging from record of the case is that petitioners are employees of respondent-Corporation and their services are governed by Main Services Regulation, 1972 and not Rules and Regulations governing services of government employees. The policy circular dated 27.02.2013 (P-3) requires

Board/Corporations to grant extension if their financial position is not affected. All the policy decisions of Corporation are taken by Board of Directors which is Competent Authority to decide question of extension of service of employees.

8. The policy circular dated 27.02.2013 (P-3) did not mandate Board/Corporation to extend tenure of service rather required Boards/Corporations to grant extension only if their financial position is not affected. The relevant extracts of the circular reads as under:-

4. Now the Department of Finance has received cases from various Boards/Corporations seeking clarification/guidelines in this regard and also sought permission to grant extension of one year service to the employees in their respective Boards/Corporations. Therefore, accordingly following decision has been taken that:-

(a) This decision shall be applicable in those Boards/Corporations who have made provisions in their bye-laws/service rules to adopt Punjab Civil Services Rules or those Boards/Corporations in which the age of retirement is at par with the employees of the State Government.

(b) The Boards/Corporations can extend one year service of their employees after seeking the approval of their respective administrative departments.

(c) The Boards/Corporations before granting one year extension in service of their employees shall also keep in view the following points:-

(i) That the extension of one year service shall be applicable to all the employees working in the respective Boards/Corporations as has been done in respect of all State Government employees, no pick and choose policy shall be adopted.

(ii) No further extension shall be granted to the

employees working in the Boards/Corporations where cadre of specific categories has been declared as diminishing cadre or where there is surplus staff in any category.

(iii) The extension of one year service shall not be granted in case where the financial position of those Boards/Corporations is effected by granting one year extension in service.

(iv) The extension of one year service shall not be granted to the employees of those institutions who receive grant-in-aid from State of Punjab.

[Emphasis Supplied]

9. The Board of Directors of the Corporation after considering detail report which is based upon opinion of different Departments has concluded that financial position of Corporation would be affected if extension is granted. In view of policy circular dated 27.02.2013 (P-3) which is not under challenge rather basis of present writ petition, the Board has taken a conscious decision and this Court cannot opine that extension would or not affect financial position of the Board. The Court has no authority to substitute its opinion because it is Board of Director who is the Competent Authority to form an opinion on the basis of actual Facts and Figures. As Board has already concluded that extension would not be granted and employees of Corporation are not governed by rules and regulations governing employment of State Government employees so claim of the petitioners is not maintainable and accordingly petition deserves to be dismissed.

In view of aforesaid findings, this Court finds no merit in the present petition and accordingly petition is '**dismissed**'. However, it is made

clear that petitioners would be entitled to salary and other dues for the period they had worked beyond their superannuation age of fifty-eight (58) years.

April 18, 2018

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(JASWANT SINGH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>