

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

CWP-29506-2017

Date of decision-27.02.2018

Ashok Kumar

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Raj Kaushik, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of certiorari for quashing the order dated 28.04.2017 (Annexure P-2) whereby case of the petitioner for extension of service from 58 years to 60 years has been declined.

Learned counsel contends that petitioner was appointed as Technician Grade-I (Binding Trade) with the respondents. During service, the petitioner suffered mental and physical disability. The Civil Surgeon, Patiala, vide his opinion dated 19.12.2016 (Annexure P-1) observed that the petitioner was not fit for job due to physical and psychiatry problem. It is further contended that before the date of superannuation, the petitioner had requested the department for extension of his service from 58 years to 60 years. The request was declined by the respondents/department in an illegal manner vide order dated 28.04.2017 (Annexure P-2). As per Section 20 of the Rights of Persons with Disabilities Act, 2016, differently abled person

cannot be discriminated in any matter relating to employment. The petitioner has been discriminated only because of the fact of the medical opinion regarding his physical and mental health (Annexure P-1). He cites judgment passed by this Court in ***CWP No.5436 of 2009 decided on 06.03.2012 titled as Smt. Roshni Devi Vs. Haryana Vidyut Prasaran Nigam (HVPN) and others (Annexure P-4).***

I have heard learned counsel for the petitioner and have gone through the case file.

It is noticed that an extension of service cannot be claimed as a matter of right. Hon'ble the Supreme Court in ***P.Venugopal Vs. Union of India, 2008 (5) SCC***, has held as under:-

“It is true that in establishments like AIIMS, there is an age of superannuation governing the length of service of its officers and employees. Such age of superannuation may be suitably altered by way of reducing the age so as to affect even the serving employees under appropriate circumstances and no exception can be taken to such course of action. Similarly under the Service Rules, there may be provision for extension of service after the attainment of the age of superannuation and it is well settled that in the event of refusal by an employer to grant an extension, the employee cannot justifiably claim to be deprived of any right or privilege. The view taken is that the employer has a discretion to grant or not to grant such extension having regard to the interest of the employer or the establishment. This view is expressed by this Court in State Bank of Bikaner and Jaipur and Ors. vs. Jag Mohan Lal (AIR 1989 SC 75). In this case, at para 12, this Court observed as follows :

"13....The Bank has no obligation to extend the services of all officers even if they are found suitable in every respect. The interest of the Bank is the primary consideration for giving extension of service. With due regard to exigencies of service, the Bank in one year may give extension to all suitable retiring officers. In another year, it may give extension to some and not to all. In a

subsequent year, it may not give extension to any one of the officers. The Bank may have a lot of fresh recruits in one year. The Bank may not need the services of all retired persons in another year. The Bank may have lesser workload in a succeeding year. The retiring persons cannot in any year demand that "extension to all or none". If we concede that right to retiring persons, then the very purpose of giving extension in the interest of the Bank would be defeated. We are, therefore, of opinion that there is no scope for complaining arbitrariness in the matter of giving extension of service to retiring persons."

Learned counsel for the petitioner has failed to demonstrate as to how the petitioner has been discriminated. The grant of extension beyond retirement is matter of discretion with the department. The respondent/department in its wisdom has thought it appropriate not to grant extension to the petitioner beyond 58 years to 60 years. No fault can be found with the impugned order. The petitioner is free to claim if any relief is made out in his favour in the light of observations made by this Court in **Smt. Roshni Devi's case (supra)**.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

27.02.2018

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No