

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

LPA-422-2019 (O&M)

Date of decision:- 25.02.2019

Sunil Kumar Khosla

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Raj Kumar Garg, Advocate,
for the appellant.

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KRISHNA MURARI, C.J. (ORAL)

This intra court appeal under clause X of the Letters Patent is directed against the judgement and order dated 28.01.2019 passed by learned Single Judge dismissing the writ petition filed by the petitioner (appellant herein) challenging the order dated 29.09.2017 whereby he was directed to be retired after withdrawing one year extension period granted to him.

2. The facts relevant for the purpose of adjudication of the controversy in brief can be summarized as under:-

Appellant, who was working on the post of Accounts Officer in the office of Joint Development Commissioner (IRD) retired from service on attaining the age of superannuation on 31.07.2017. He was given extension for a period of one year vide order dated 29.03.2017 w.e.f. 01.04.2017 to 31.03.2018. Finding some serious lapse in his working and functioning during the extension period, he was charge-sheeted under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 and vide order dated 29.09.2017, he was retired from service w.e.f. 30.09.2017. The same was challenged by the appellant by filing the writ petition mainly on the ground that under the instructions dated 30.04.2015,

the extension could have been withdrawn only by a Committee

constituted with the Administrative Secretary as Head of the Department and a senior officer in the case of Group A and B officers. The case of the appellant was that since he held Group A post, therefore, without the recommendation of the Committee so constituted, his extension could not have been withdrawn and he could not have been retired from service. Learned Single Judge after analyzing clause 5 of the instructions dated 30.04.2015 came to the conclusion that since the appellant was facing notice of grave misconduct during extension of his service, the extension in service could be withdrawn without any notice and, thus, dismissed the writ petition.

3. Learned counsel for the appellant vehemently contended that the action is bad in law inasmuch as the instructions whereunder a Committee was to be constituted to consider the question of withdrawal of extension have not been followed and the impugned order is in utter violation of the same.

4. We have considered the arguments advanced by learned counsel for the appellant and perused the record. It may be relevant to reproduce clause 5 of the instructions dated 30.04.2015 which read as under:-

"5. Those officers/officials against whom found grave misconduct or notice of grave misconduct during or before extension in service, then in addition to initiated departmental proceedings against him under Rule 8 of Punjab Civil Services (Punishment and Appeal) Rules, 1970, the extension in service can be withdrawn without any notice. A Committee will be constituted with the Administrative Secretary Head of the Department and a senior officer in these cases of group A and B officers who will give his findings in the same month. Decision relating to group C and D will be taken by the appointing authority."

5. A perusal of the same clearly goes to show that an officer who is found to have committed grave misconduct or notice of grave misconduct has been issued either during or before extension

of service, then in addition to initiation of the departmental proceedings against him under Rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, the extension could be withdrawn without any notice. The Committee referred to in the said clause is in respect of the departmental proceedings to be initiated against the officer which becomes clear from the use of the word "who will give his findings in the same month".

6. The fact that the charge-sheet was issued to the appellant for grave misconduct during the extension period is not disputed. Once that is an admitted factual position, in view of the instructions referred to above, the extension in service of the appellant could be withdrawn without any notice and the argument that it could only be done by a Committee constituted does not hold good ground.

7. In view of the above, we do not find any infirmity in the view taken by the learned Single Judge, which may require our interference. The appeal is devoid of merits and accordingly stands dismissed.

8. Application being CM-974-LPA-2019 also stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

25.02.2019

Amodh

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