

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

Letters Patent Appeal no. 701 of 2019 (O&M)

Date of Decision: 09.04.2019

Santosh Kumari and others

.....Appellants

versus

Indian Council for Child Welfare, Chandigarh and others

-

.....Respondents

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

Present : Mr. SS Kharb, Advocate, for the appellants.

KRISHNA MURARI, CHIEF JUSTICE (oral)

CM No. 1688-LPA of 2019

Heard. For the reasons mentioned in the application, delay of 21 days in filing the appeal is condoned. Application stands disposed of.

LPA No. 701 of 2019

This intra-court appeal under Clause X of the Letters Patent challenges the judgment and order dated 30.10.2018 passed by the learned Single Judge dismissing the writ petition filed by the appellants challenging the order of retiring them from service before they attained the age of 60 years.

2. Admittedly, the appellants-petitioners were appointed on the posts of Balsevikas to run the crèche for the children of unemployed couples working in the Indian Council for Child Welfare in Union Territory, Chandigarh.

3. There is no dispute about the fact that Indian Council for Child Welfare is a society registered under the Societies Registration Act, 1960 and is functioning as NGO and the employees working in the said society are governed by the Service Rules known as “Conditions of Service Rules of the Employees of Indian Council of Child Welfare, U.T. Branch, Chandigarh, 2006”. Under the said Rules, the age of superannuation of all the employees has been provided as 58 years.

4. The claim of the appellants-petitioners was based on a notification issued by the Government of India, Ministry of Home Affairs, known as ‘Conditions of Service of U.T. Chandigarh Employees Rules, 1992’ whereby the condition of service of persons appointed to Central Civil Services and posts in Group A to D under the administrative control of the Administrator of U.T. Chandigarh was provided to be the same as condition of service of persons appointed to corresponding posts in Punjab Civil Services. There is no material on record to even remotely indicate that the Conditions of Service of U.T. Chandigarh Employees Rules, 1992 was ever adopted by the Council.

5. It so appears that a recommendation was made for adopting the said Rules and in anticipation of the approval, the Honorary Secretary of the Council granted extension of service to the appellants beyond the age of 58 years. However, since subsequently the Executive Committee declined to grant such approval and resolved to abide by the Rules of 2006, the extension granted to the two appellants was withdrawn and they were relieved.

6. It is well settled principle of law that the right of extension of service beyond the prescribed age of superannuation would be available only on the basis of some legal statutory rules. Since there exists no such rule in

the respondents’ society whereby the employees beyond the age of 58 years could be allowed to continue, in our opinion, the learned Single Judge committed no error of law in dismissing the writ petition.

7. Further the question as to whether the writ petition would lie in respect of the service conditions of an employee of a society registered under the Societies Registration Act also arises in this matter.

The appeal is thus devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

09.04.2019
ravinder

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