

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

LPA No.2273 of 2016 (O & M)
Date of Decision: *January 13, 2020*

Suresh Mittal

..... APPELLANT

VERSUS

Maharaja Agrasen Institute of Medical Research and Education, Agroha (Hissar)
through its Director & another

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE JASWANT SINGH**
 HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. Yash Pal Malik, Advocate, for the appellant.

Mr. Vikas Bahl, Senior Advocate, with Ms. Rose Gupta and
Mr. Dhruv Walia, Advocate, for respondent No.1.

Ms. Shruti Jain Goyal, Deputy Advocate General, Haryana,
for respondent No.2 – State.

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Sant Parkash, J.

CM No.3900-LPA of 2019

Application is allowed as prayed for.

Minutes of Executive Committee held on 15.01.2018 are taken
on record as Annexure R-1/11.

Main case

Challenge in the instant appeal is against the judgment dated
08.09.2016 passed by the learned Single Bench, whereby the writ petition
preferred by the appellant – petitioner has been dismissed.

The brief facts of the case are that petitioner superannuated w.e.f.

31.03.2016 from Maharaja Agrasen Institute of Medical Research and Education,

Agroha, Hisar (for short, 'Institute'). The appellant was initially appointed on the post of Accountant/Cashier on 22.05.1996, making it clear in his appointment letter that in all other matters not specifically mentioned in the letter, will be governed by the Haryana government instructions issued from time to time. Earlier an agreement dated 01.06.1990 was entered into between State of Haryana through Governor and Maharaja Agrasen Medical Education and Scientific Research Society, Agroha (for short, 'Society'), for the establishment of the aforesaid Institute. It was also agreed in the aforesaid agreement Clause 9 prescribing that the State Government will pay all recurring charges to the extent of 99% in advance, in half yearly instalment, towards the expenses of the Institute including all expenditure for running the hospital and college etc.

Respondent No.1 – Institute, in order to ascertain the age of superannuation of teaching and non-teaching staff wrote a letter dated 15.03.2014 to Pt. B.D. Sharma Post Graduate Institute of Medical Sciences, Rohtak, in response to which, vide letter dated 15.04.2014, Pt. B.D. Sharma Institute intimated that the age of superannuation of teaching staff was 65 years and that of non-teaching staff was 62 years. Thereafter, vide meeting dated 28.05.2014 held by HRD Committee of respondent No.1 – Institute, age of superannuation of teaching staff was raised to 65 years from 60 years, whereas, the age of superannuation of non-teaching was not raised. Though, the Additional Chief Secretary to Government of Haryana, Medical Education Research Department (respondent No.2) vide letter dated 19.02.2015, directed respondent No.1 to implement the service rules of PGIMS, Rohtak, till such time the services rules are framed by the Institution. Thereafter, an office letter dated 04.03.2015 was issued to implement Haryana Government Service Rules CSR Volume-1 (Part-1 & II), CSR Volume – II including pension rules (upto 31.12.2005), New Pension Scheme (on or after 01.01.2006), Death-cum-Retirement benefits, ACP rules and superannuation age application in PGIMS, Rohtak. Further, in order to strictly

implement the rules with regard to superannuation of employees, the Executive Committee vide agenda No.11 in its meeting dated 07.07.2015, held under the Chairmanship of Health Minister, Haryana, adopted the service and pension rules of Pt. B.D. Sharma University of Health Sciences, Rohtak, till such time its own rules are framed.

In view of the aforesaid facts and situation, the appellant moved a representation dated 12.01.2016 to respondent No.1 requesting therein to treat his case of superannuation at par with non-teaching staff of PGIMS, Rohtak, which was not decided. Since the appellant – petitioner was to superannuate on 31.03.2016, he preferred a writ petition (CWP No.5613 of 2016), which was disposed of by this Court vide judgment dated 29.03.2016 (Annexure P-13), directing respondent No.1 – Institute to take a decision on representation dated 12.01.2016 by passing a speaking order and after affording opportunity of hearing to the petitioner. In the interregnum, appellant – petitioner stood retired w.e.f. 31.03.2016. However, vide order dated 04.05.2016, aforesaid representation was declined, which was challenged by the appellant in CWP No.16659 of 2016 and that too, was dismissed vide impugned judgment dated 08.09.2016.

Heard learned counsel for the parties and perused the record.

The appellant – petitioner has challenged the judgment passed by the learned Single Bench, through the present LPA, vide which the writ petition preferred by him has been dismissed.

Letters Patent Appeal (LPA) is an appeal by a petitioner against the decision of a single Judge to another Bench of the same Court. It is an intra-court appeal in High Court. The scope of the instant LPA is limited to the extent whether the judgment under appeal is permissible in law and is in consonance with the settled canons of law.

The appellant – petitioner filed a writ seeking mandamus for directing the respondent – Institute to implement the service rules as are applicable

in Pt. B.D. Sharma Post Graduate Institute of Medical Sciences, Rohtak, where the age of superannuation is 62 years for the non-teaching staff. To fortify his claim, he has referred to Agenda No.11 of the Executive Committee meeting held on 07.07.2015 and Minutes of the Executive Committee held on 15.01.2018 (Annexure R-1/11) whereby aforesaid Agenda No.11 of Meeting dated 07.07.2015 was confirmed and approved. Contention has been raised that service rules of PGIMS Rohtak are being implemented in respect of teaching faculty while on the other hand, the said concession of enhanced age of superannuation is being denied to the non-teaching staff.

Public interest demands that there ought to be an age of superannuation in public service. This issue was considered before the HRD Committee of the Executive Committee of respondent No.1 – Institute on 28.05.2014. The Committee was apprised that the age of superannuation for teaching and non-teaching staff in the respondent – Institute at Agroha is as under:-

- i) Teaching staff : 60 years
- ii) Non-teaching staff : 58 years
except Group 'D'
- iii) Group 'D' employees : 60 years

Upon deliberation and discussion, it was decided that the Committee would extend the age of superannuation of teaching staff upto 65 years which was permissible by making a maximum extension of two years at a time. In other words, a total number of three extensions upto the age of 65 years were envisaged. The reason for the aforesaid decision was cited as there being a scarcity of teaching staff in the Medical College. However, the Committee did not make any change as regards superannuation age of non-teaching staff and therefore, that remains at 58 years. Moreover, Rule 3.26 (a) of the Punjab Civil Services Rules (Volume – I Part – I), as applicable to the State of Haryana, stipulates an age of retirement to be 58 years. Therefore, the learned Single Judge, after considering the various aspects of the case and considering the ratio of law laid down by the

Supreme Court in **K. Nagaraj & others vs. State of Andhra Pradesh & another, (1985) 1 Supreme Court Cases 523**, has rightly held that the respondent – Institute has followed such pattern as regards the non-teaching staff and extensions are permissible qua the teaching staff to meet out the exigency i.e. scarcity of teaching staff in the Medical College.

In view of the aforesaid discussion, we do not find any infirmity or illegality in the impugned judgment in dismissing the petition filed by the appellant - petitioner and the same is hereby affirmed.

Dismissed.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

January 13, 2020
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No