

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

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IN VIRTUAL COURT

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**CWP No. 258 of 2021
Date of decision : 7.1.2021**

Gurcharan Singh Mann

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Amit Sharma, Advocate, for the petitioner

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of certiorari, for setting aside the impugned order dated 31.12.2020 (Annexure P-2), issued by respondent No.3, relieving the petitioner from service, without completing the extended period of 3 months of service, commencing from 1.12.2020 till 28.2.2021, as per the Government Notification dated 22.10.2020 (Annexure P-1).

The facts of the present case are that the petitioner joined the Punjab Civil Medical Services on 29.1.1993. He was promoted thereafter upto the post of Senior Medical Officer. The date of superannuation of the petitioner was 30.11.2020. Accordingly, in ordinary course and without intervention of any other statutory provision, the petitioner would have retired from service w.e.f. 30.11.2020. However, the State of Punjab issued statutory Instructions dated 22.10.2020, which are attached as Annexure P-1, which stipulated that doctors, who were 58 years of age and plus, but below the age of

60 years, were given a 3 months extension w.e.f. 1.10.2020 to 31.12.2020. The petitioner was also granted this extension. Ultimately, the petitioner was retired from service w.e.f. 31.12.2020 on completion of the extension period as provided vide the above said Instructions issued by the State of Punjab. It is challenge to this retirement order, which is involved in the present petition.

It is submitted by the counsel for the petitioner that there is an ambiguity in the Instructions issued by the Government of Punjab. Initially, the Government had issued Instructions dated 23.9.2020, whereby the doctors, who had attained the age of 58 years but below the age of 60 years, were granted extension of 3 months. Later on, the instant instructions have been issued. The present instructions convey only the approval of the Council of Ministers. Hence, as per the instructions, any person who attains the age of 58 years but is below the age of 60 years, is to get 3 months flat extension; to be counted from his own date of superannuation. Hence, the 3 months extension in case of the petitioner would start w.e.f. 1.12.2020. Accordingly, the petitioner was entitled to continue in service upto 28.2.2021. However, the petitioner has been retired vide the impugned order, which is against the instructions of the Government itself.

Having heard the counsel for the petitioner, this Court does not find any substance in the argument of learned counsel for the petitioner. It is not even disputed that the age of superannuation in case of the petitioner is 58 years. It is also not disputed that the petitioner was to attain the age of superannuation on 30.11.2020 in ordinary course. Therefore, as per the Policy Instructions of the State Government, the petitioner is entitled to continue in service upto 31.12.2020 only. There is no ambiguity in the instructions as

such. The instructions issued by the Government are quite clear. The language of the instructions makes it clear that this extension is meant for the doctors who were of 58 years of age but below the age of 60 years. Such doctors were to avail the extension for a specified period starting from 1.10.2020 till 31.12.2020. The period of 3 months shall have reference to the duration of extension as contemplated by the Government and which has been specified in the instructions, and not the reference to any date of superannuation of an individual person who might be attaining age of superannuation between the period from 01.10.2020 till 31.12.2020. The instructions issued by the Government do not provide for an open ended extension of service for a period of 3 months. It is a closed ended extension specified by the dates on either side. Therefore, under the said instructions, no Doctor can claim extension beyond 31.12.2020. Hence, this Court does not find any illegality in the order passed by the respondents.

Accordingly, the present petition is dismissed being devoid of any merits.

(RAJBIR SEHRAWAT)
JUDGE

7.1.2021

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No