

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14809-2020 (O&M)

Date of Order:25.02.2021

SUNIL KUMAR

..Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parveen Kumar Garg, Advocate,
for the petitioner.

Ms. Ambika Bedi, Assistant Advocate General, Punjab.

ANIL KSHETARPAL, J(Oral)

Through this writ petition, the petitioner prays for quashing of
order dated 11.12.2019, operative part whereof reads as under:-

“As such, in the above rule provisions have been made for year wise extension upto 2 year on completion of 58 years of age of the government employee. In this case, date of birth of the petitioner is 27.08.1958 and if he had been given extension in the 2nd year then on completion of 60 years of age on 27.08.2018, his date of retirement comes at 31.08.2018. Besides this, employee cannot be given extension in service as per instructions contained in clarifications issued by finance department of the Punjab Govt. vide letter no.2/2/2012-3FP2/82 dt. 30.04.2015 regarding extension in service period:-

“The employees who have not been given extension due to pendency of departmental or criminal proceedings at the time of their retirement, but if, after their retirement, they are exonerated or minor penalty is imposed on completion of departmental or criminal proceedings, then earlier decision of not granting them extension in service will not be considered because in such cases, keeping in view the public interest as per provisions of Rule 3.26 (A) of Punjab Civil Services, Vol. I, part I, extension is neither necessary nor expedient”.

12. Sh. Sunil Kumar has already been retired as Superintendent from the government service on

completion of 59 years of age vide this office letter no.E1 (2)-P-2017/10064 dt. 31.08.2017. How, as per rule mentioned in para no.11 of the Punjab Government Instructions letter no.22/2/2012-3FP2/82 dt. 30.04.2015 extension cannot be granted in his service period. As far as pensionary benefits of the petitioner is concerned, as per above, charge sheet issued to the petitioner Sh. Sunil Kumar vide this office letter no.E-1(2)-P-2016/9848 dt. 23.08.2017, has been quashed, as such, sanction is granted for release of pensionary benefits of Sh. Sunil Kumar, Retd. Superintendent Grade-II, office of Civil Surgeon, Sangrur as per rules.”

The petitioner attained the age of superannuation on 31.08.2016. He was granted extension as per the instructions of Punjab Government, initially for a period of one year. After completion thereof, the petitioner once again applied for another extension which was rejected on 31.08.2017 on the premise that a departmental proceeding against him is pending. The petitioner challenged the chargesheet issued in this Court. The departmental proceedings were quashed vide order dated 09.09.2019 with the following observations:-

“4. In the premise, the writ petition is allowed to the extent that the subsequent charge-sheet dated 23.08.2017 (Annexure P-3) is quashed with liberty to the respondent to proceed on the basis of order dated 06.06.2016 (Annexure P-2) and take appropriate decision with regard to the petitioner’s request for extension of service, in accordance with law.

5. Let needful be done within a period of three months.”

Pursuant to the aforesaid direction, the respondents have passed the order dated 11.12.2019, as noticed above. It is not in dispute that the petitioner now cannot be granted any extension as he has already attained the maximum age of 60 years. No doubt, the ground for rejecting the second extension ceases to exist in view of the order dated 09.09.2019 passed by the High Court, however, the petitioner cannot be put back in the service. It

is also apparent that the petitioner has not worked during the period when he could be granted second extension. Through this petition, the petitioner wants the Court to issue a direction to pay the amount of salary/emoluments for the said period. Once the petitioner has not worked, the public exchequer cannot be burdened unnecessarily. The petitioner after having attained the age of superannuation retired. The petitioner was granted extension only because of instructions issued by the Government. In the absence of any specific instructions to the contrary, the petitioner is not entitled to payment of the aforesaid period.

In such circumstances, this Court does not find it appropriate to issue the writ which will result in payment of emoluments for the period, during which the petitioner did not perform the duties.

Hence, disposed of.

February 25, 2021
Ayub/nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No