

“(ii) To issue a writ in the nature of Certiorari for quashing/ reading down impugned Notification dated 30.10.2015 (Annexure P-4) as well as instructions dated 30.10.2015 (Annexure P-5) to the extent vide which the accrued/vested rights in terms of the Notification dated 08.10.2012 (Annexure P-1) of the petitioner have been taken away, since the employees are being asked to submit a fresh option seeking extension in service contrary to earlier option which stands accepted of the petitioner and the recommendations of the DPC dated 02.07.2015 (Annexure P-3) for promotion of the petitioner is being taken away alongwith the benefits of revised pay scales etc., since the respondents are applying the notification retrospectively and also the action of the respondents seeking the petitioner to submit his fresh option in terms of the new notification/instructions.

(iii) To issue a Writ of Mandamus directing the respondents to allow the petitioner to discharge his duties in terms of the option already accepted by him vide which he has been allowed an extension in service after attaining the age of 58 years for one year from 01.04.2015 to 31.03.2016 in terms of the Govt. Notification dated 08.10.2012 (Annexure P-1) and consequently directions be issued to the respondents to promote the petitioner in terms of the recommendation of meeting of the DPC dated 02.07.2015 (Annexure P-3) wherein his name has been recommended for promotion alongwith all consequential benefits, especially when employees from Junior Engineer (Diploma Holders) quota stands promoted prior to 30.10.2015 on the basis of the said recommendations and to hold the action of the respondents arbitrary alongwith further direction to grant the benefit of promotion w.e.f the date the other Junior Engineers recommended by the DPC dated 02.07.2015 (Annexure P-3) stand promoted as referred in the petition.”

4. In essence, the petitioner claims that he is entitled to be promoted as a Sub Divisional Engineer w.ef. 02.07.2015.

5. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook. As regards the first and second prayer of the petitioner, the matter is squarely covered

against the petitioner in view of the judgment passed by the Division Bench in **Ajaib Singh and others vs. State of Punjab and others 2016 (1) SCT 298.**

6. With respect to the next prayer of the petitioner, it may be noticed that in CWP-25474-2015 (Rajpal vs. State of Punjab and another), this Court has discussed the Rules as under:-

“As per the Punjab Civil Services Rules, Vol.I, Part I, ordinarily the retirement age of Group A, B and C employees is 58 years whereas it is 60 years in the case of Group D employee. On 08.10.2012, the State of Punjab amended the Punjab Civil Services (First Amendment) Rules, Vol.I, Part I, while enabling the State Government to extend the period of service beyond the date of retirement for a period not exceeding 2 years after getting option from the concerned Government employee. Clause b of Rule 3.26 provided as under:-

“(b) Notwithstanding anything to the contrary contained in these rules or any other rules for the time being in force, during the extended period of service under clause (a) of this rule, a Government employee shall be entitled to pay equal to the pay last drawn by him on the date on which he attains the age of 58 years or 60 years, as the case may be. However, if a promotional post is available, he shall be eligible for consideration for promotion against that post and on promotion his pay shall be fixed under the relevant rules.”

7. As already noticed, on 30.10.2015, a second amendment was notified and clause (b) of Rule 3.26 reads as under:-

“(b) Notwithstanding anything contained in these rules or any other rules for the time being in force, during the extended period of service under clause (a), the Government employee shall entitled to pay equal to the pay last drawn by him, on attaining the age of fifty eight years

or sixty years including an employee, who is already on extension, as the case may be;

Provided that the Government employee, whose service is extended shall not be entitled to:-

- (i) Promotion*
- (ii) the benefit of Assured Career Progression;*
- (iii) an annual increment; and*
- (iv) any revision of pay made by the State Government.*

Provided further that the pay of Government employee already on extension, who has been given promotion or the benefit of Assured Career Progression during the extended period till the issue of this modification, shall be protected and he shall be given the retiral benefit on the basis of his protected pay.”

8. The petitioner was due to retire on attaining the normal age of superannuation i.e 58 years on 30.06.2015. On the option exercised by the petitioner, the period of his service was extended from 04.07.2015 to 30.07.2016. On 02.07.2015 a meeting of the Departmental Promotion Committee was held that recommended the name of the petitioner to the post of Sub Divisional Engineer, however, it was kept in abeyance on account of the representation made by Sh.Kewal Krishan, who claimed promotion as a Graduate Engineer. He alleged that his name has been wrongly excluded from consideration in the meeting of the Departmental Promotion Committee on 02.07.2015. Ultimately, the other degree holders were promoted on 28.12.2015 however, on account of second amendment extracted above, the petitioner was not promoted. This writ petition was filed on 20.11.2015. The Departmental Promotion Committee evaluates the claim and then submits recommendations to the

competent authority. However, the final decision regarding the appropriate action to be taken is made by the competent authority after reviewing the report submitted by the Departmental Promotion Committee. Within a period of three months, there was an amendment in the Rules, which debarred the employees from claiming promotion during the extended period of service. It is not the case of the petitioner that any of his junior has been promoted to the post of Sub Divisional Engineer before attaining the normal age of superannuation. The validity of the second amendment in the Punjab Civil Services (Second Amendment) Rules, 2015 has already been upheld by the Division Bench of this Court in **Ajaib Singh and others vs. State of Punjab and others 2016 (7) SCT 298**.

9. In view of the aforesaid facts and discussion, there is no ground to issue the writ, as prayed for.

10. Hence, dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

13.04.2023
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE