



LPA-103-2021

1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

LPA-103-2021
Reserved on November 29, 2024
Pronounced on: December 17, 2024

Punjab School Education Board through its Secy.Appellant

vs.

Jaspal Kaur and othersRespondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Anupam Singla Advocate, and
Mr. Lalit Goyal, Advocate, for the appellant.

Mr. Rishav Sharma, Advocate, for respondent No. 1 No. 1

Mr. Maninder Singh, Sr. DAG, Punjab

SUDEEPTI SHARMA J.

1. The present Letters Patent Appeal under Clause-X of the Letters Patent Act, is preferred by the appellant-Board against the judgment dated 23.12.2020 passed by the learned Single Judge of this Court in CWP No. 21883-2020.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

2. Learned counsel for the appellant-Board contends that the learned Single Judge by relying upon Rule 3.27 of Punjab Civil Services Rules Volume 2, allowed the writ petition of the respondent No. 1 and granted her relief of extension in service till 60 years, without appreciating the fact that respondent No. 1 was contractual employee of the appellant-Board and Punjab Civil Services Rules are not applicable to the employees of the appellant-Board.

3. He further contends that even Service Regulations are only applicable to the regular employees of the appellant-Board and thus, the



Service Regulations are also not applicable in the case of respondent No. 1. Moreover, there is no clause in the Service Regulations that provides for grant of 02 years extension in service to the disabled employees.

4. He further submits that even if it is presumed that Rule 3.27 of Punjab Civil Services Rules Volume 2 is applicable, even then respondent No. 1 is not entitled to extension in service, as Fiscal Palsy is not covered under Rule 3.27.

5. Per contra, learned counsel for the respondent No. 1 submits that the writ petition filed by the respondent No. 1 has rightly been allowed by the learned Single Judge and thus prays for dismissal of the appeal.

6. We have heard learned counsel for the parties and perused the whole record of this case.

ANALYSIS OF THE RECORD

7. A perusal of the record shows that respondent No. 1 was appointed as a Clerk on daily wages on 14.01.1997 on D.C. Rates. Her contract was extended from time to time till 31.12.2020. The services of respondent No. 1 were never regularized and vide order dated 26.11.2020/04.12.2020, she was discharged from service w.e.f 31.12.2020 on attaining the age of 58 years. She challenged the impugned order dated 26.11.2020/04.12.2020 by way of filing CWP No. 21883-2020, which was allowed on 23.12.2020. Hence the present appeal has been filed by the appellant-Board, challenging the judgment dated 23.12.2020 passed by learned Single Judge.

8. Before proceeding further, it is necessary to reproduce the impugned order dated 26.11.2020/04.12.2020, whereby the respondent No. 1 was discharged from service.

**PUNJAB SCHOOL EDUCATION BOARD****ORDER**

Smt. Jaspal Kaur D/o Sh. Avtar Singh, Exam 5th/8th

Branch whose services were extended on contract basis in pursuance of the order of the Hon'ble High Court from time to time shall stand discharged from service w.e.f 31.12.2020 (afternoon) on attaining the age of 58 years.

2. *In case after the issuance of this order if any facts/deficiency/legal complication is come the notice this office the office will have right to correct the same.*

*Secretary
Punjab School Education Board*

Date, Sahibjada Ajit Singh Nagar

26.11.2020

No. (E-26748) PSEB-65-Estt-2020/2939

9. A perusal of the above order shows that even the extension given to respondent No. 1 was on contract basis and it was in pursuance to the order passed by this Court from time to time. Further in the reply filed by the appellant-Board to the writ petition, it has been stated that the services of respondent No. 1 were never regularized and throughout, she served the appellant-Board as a contractual employee. The appellant-Board has relied upon Regulation 22 whereby the age of retirement is 58 years for whole time employees, whereas, in the present case, respondent No. 1 was discharged from service, since she was not the regular employee. The writ petition filed by her, was allowed by the learned Single Judge by relying upon Rule 3.27 of Punjab Civil Services Rules Volume 2. The said Rule is reproduced as under:-



“Notwithstanding anything contained in Rule 3.27 the date of retirement of a Government employee (other than a Group ‘D’ employee), who is suffering from any of the disabilities viz., blindness or low vision, hearing impairment, locomotor disability or cerebral palsy, shall be the date on which he attains the age of 60 years instead of 58 years.

10. Respondent No. 1 by claiming to be suffering from 60 per cent disability, relied upon the above referred to Rule. The above referred Rule would not be applicable in the case of respondent No. 1, since the appellant-Board is having its own Service Regulations. Even if Rule 3.27 of Punjab Civil Services Rules Volume 2 could have been applicable to the employees of the appellant-Board, then also respondent No. 1 could not take the benefit of the same, as the same is applicable to the regular employees. Therefore, we do not accept the findings given by the learned Single Judge in allowing the writ petition by relying upon Rule 3.27 of Punjab Civil Services Rules Volume 2.

11. Further pursuant to last paragraph of the impugned judgment, respondent No. 1 was required to get herself medically examined for determining the disability as claimed and further that in case, respondent No. 1 is indeed suffering from the disability, she would become entitled to the claimed benefit. The necessary action was ordered to be taken by the appellant-Board to afford extension of service to respondent No. 1 as afforded to similarly situated employees vide Annexure P-5.

12. A bare perusal of Annexure P-5 shows that the same is dated 19.06.2020 and as per this order, the contractual service of the clerks thus was extended but in view of pending writ petitions before this Court. In Para No.

**LPA-103-2021****5**

2 of this order, it has been specifically mentioned that the contract of respondent No. 1 is extended till 31.12.2020 and on completion of 58 years of age, her services shall stand discharged w.e.f 31.12.2020.

13. Subsequently, vide impugned order dated 26.11.2020/04.12.2020, the order of discharge from service w.e.f 31.12.2020 was passed by the appellant-Board, which was impugned by the respondent No. 1 by filing civil writ petition bearing No. 21883-2020.

14. The learned Single Judge has totally ignored the supra undisputed facts while allowing the writ petition. Further when the present appeal came up for hearing on 26.03.2021, the learned counsel for the appellant contended that the Medical Disability Board, PGI Chandigarh was requested to assess the degree of disability of respondent No. 1, in compliance of the present impugned judgment, but the respondent No. 1 refused to appear before the said Board. The said conduct of respondent No. 1 does not deserve qua any relief being granted to her.

15. In view of the discussion made above, the present appeal is allowed and impugned judgment dated 23.12.2020 passed by the learned Single Judge is set aside.

16. All the pending applications, if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 17, 2024

Gaurav Arora

Whether speaking/reasoned : Yes
Whether reportable : Yes