

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-20831-2017 (O&M)
Date of decision: 27.02.2024

Naresh Kumar Goel

...Petitioner

vs.

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Vikas Chatrath, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab

AMAN CHAUDHARY. J.

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for quashing of order dated 31.08.2017, Annexure P-7, vide which the petitioner has been ordered to be retired from service w.e.f 31.08.2017 instead of 30.11.2017 i.e., the due date of his retirement as per the extension granted.

2. Learned counsel would submit that the petitioner, who was working on the post of Deputy Registrar, Cooperative Societies, Fatehgarh Sahib and on attaining the age of 58 years, was granted extension for the period of one year in service up to 30.11.2016. Thereafter, vide order dated 28.11.2016, again it was extended till 30.11.2017. However, the same was cut short to 31.08.2017, vide the impugned order dated 31.08.2017, on he being implicated on basis of disclosure statement of one Sandeep Bhardwaj, during investigation in F.I.R No. 11 dated 15.01.2017, wherein he was not named. After investigation, he was placed in column No.2 in the challan submitted on 13.06.2018. As per clarification dated 30.04.2015, those Government officials/ employees against whom charge sheet has

1970 for departmental enquiry or finalised; or major penalty has been imposed; or charges have been framed by the Court of competent jurisdiction, would not be considered for extension of service. To buttress his submission, reliance is placed on CWP-438-2016 **Bimla Devi vs. State of Punjab and others**, decided on 19.09.2016, Annexure P-11; CWP-18632-2015, titled as **Joga Singh vs. State of Punjab and others**, dated 09.05.2017 and **Jagdeep Singh Ghuman vs. Chairman-cum-Managing Director, Punjab State Power Corp Ltd, Patiala and another**, passed in CWP-25781-2013, decided on 22.05.2024.

3. Learned State counsel, on the other hand, submits that the impugned order passed was legal and valid, as an F.I.R was registered against the petitioner, it was not possible to allow him to continue his service with the Department.

4. Heard learned counsel on either side.

5. Notably, while working as Deputy Registrar, the petitioner was granted extension till 30.11.2017, which was curtailed by way of the impugned order dated 31.08.2017, due to the lodging of the FIR.

6. It would be worthwhile to refer to the judgment in **Union of India vs. KV Jankiraman** (1991) 4 SCC 109, wherein Hon'ble the Supreme Court had held that initiation of Departmental proceedings are from the date of serving the chargesheet, while the criminal proceedings commence from the date of framing of charge. The clarification dated 30.04.2015 is, in essence, in sync with the law laid down as it envisages that those under cloud on account of either of the above, would not be entitled for grant of extension in service.

7. In **Jasdeep Singh Ghuman** (supra), wherein the result of the petitioner for recruitment to the post of Assistant Engineer (OT)-Electrical, was withheld on account of an F.I.R having been registered against him and others, it was observed that, "Hence, it is crystal clear that in view of the settled principle of

law that mere registration of FIR cannot form the basis of holding a person guilty of a misconduct...". Following the above, in **Joga Singh** (supra), the petitioner was not promoted on account of the fact that F.I.R was registered against him, but after investigation, he was placed in column No.2, this Court allowed the writ petition observing therein that, "The present case is on a better footing as the petitioner has been kept in column No.2 by the investigating agency at the time of the presentation of the challan. Meaning thereby, technically there is no sub criminal proceedings pending against the petitioner at present. Under these circumstances, the instructions (R-5) relied upon by the respondent-State is misconceived and are of no help to them."

8. In **Bimla Devi** (supra) wherein though, after age of superannuation, the petitioner was allowed to work awaiting the decision regarding extension in service, which was subsequently not granted to her on account of challan having been presented in the FIR against her, this Court had observed that she was placed in column No. 2 and as per the amended policy decision dated 30.04.2015, it could have been declined only if criminal charges by the trial Court had been framed. To this, the State had conceded that the impugned order was passed without due consideration of the above policy and on reconsidering, salary till 04.01.2016 and extension for the second year commencing from 01.07.2016 to 30.06.2017, were granted, rendering the petition as infructuous.

9. Indubitably, at the relevant time of passing order dated 31.08.2017, only the FIR had been registered on 15.01.2017, a factum so recorded therein, which on completion of investigation led to filing of the Final Report dated 13.06.2018, that too placing the petitioner in column No.2 thereof, by which time even the period of extension expired, it being till 30.11.2017. Ergo, in effect and in terms of the settled law as also the Clarificatory Instructions dated 30.04.2015, as

on date of the impugned order, it could not be concluded that the petitioner had disentitled himself or was not worthy of being permitted to complete the period of extension.

10. It may be accentuated that the instant petition was filed well before the expiry of the extension in service, which though remained pending before this Court, while the petitioner was willing to work. As a sequitur, by sheer efflux of time, the prayer made herein for allowing him to continue in service no longer subsists. However, he is entitled to salary for the period he would have served, if was not made to sit idle.

12. On a conspectus evaluation of the matter, this Court is of the view that the petitioner is entitled to the salary, minus pension for the period from 31.08.2017 to 30.11.2017. The same be released within a month, from the date when a web-print of this judgment is made available to the respondent-Department.

12. The present petition stands disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

27.02.2024
G Arora

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