

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-19970-2021
Date of Decision: 07.02.2024

Baljinder Kaur ...Petitioner

VS

State of Punjab and others ...Respondents

CORAM : HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. R.K. Arora, Advocate for the petitioner.

Ms. Shivani Kapoor, DAG, Punjab.

AMAN CHAUDHARY, J

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari/mandamus quashing the action of the respondents in not considering grant extension in service to the petitioner till 31.03.2022 in terms of Section 3 of the Punjab School Teachers' Extension in Service Act, 2015 (for short 'the Act').

2. Learned counsel would contend that the petitioner was to retire on attaining the age of superannuation on 31.08.2021 and as per the Act, employees who were to retire between 1st day of August of a year and the last day of the month of February of the next year, were deemed to be on extension in service after the date of superannuation upto 31st day of the following month of March unless they had voluntarily given an option not to continue in service. However, during that period no increment or promotion was to be granted. The petitioner after completion of her age of superannuation on 31.08.2021, submitted a representation dated 28.08.2021, which was forwarded by the Principal to the Secretary, Punjab School

Education Department, Mohali vide letter No.245 dated 28.08.2021, Annexure P-3 for extending her service upto 31.03.2022. Further, in similar circumstances, the employees, who were not being granted extension in service, despite the aforesaid Act, had approached this Court and by way of interim orders, were permitted to continue and finally after completion of the extension period, the said cases were disposed as having been rendered infructuous. Reference is made to Annexures P-5 to P-8. A similarly situated colleague of the petitioner, Mr. Satindervir Singh, Principal, who was officiating as DEO, was held to be deemed to be on extension in service till 31.03.2022, vide order dated 20.09.2021, but the petitioner was not allowed the same.

3. Contrarily, learned State counsel would submit that it is only on account of the fact that a report dated 20.09.2021, Annexure R-1 was sought and received from District Smart School Mentor, Amritsar to the effect that the petitioner was not a good administrative officer, did not have much control on the school and work assigned by the Department was not done in time; that the extension in service was not necessary to be granted to her.

4. Heard learned counsel on either side.

5. It is at first, apposite to refer the relevant portion of the Act, which reads thus:

“Extension in Service of teachers after attaining the age of superannuation.

3. Notwithstanding anything contained in any law or service rules applicable to the teachers, all such teachers, who would otherwise have retired from service on completion of age of superannuation on any date falling between the 1st day of August of a year and the last day of the month of February of the succeeding year, except in case of their otherwise voluntary option, shall continue in service, and they shall be deemed to be an extension of their service after the date of superannuation up to the 31st day of the following month of March with the

condition that there shall neither be any increment nor any promotion during the period of the said extension specific to these teachers only.”

6. A bare perusal of the provision, *expressis verbis* reveals that except for an employee, who would opt not to take the benefit of extension in service, the State was to extend the services and it was not contingent upon any report regarding satisfactory work etc, in wake of which the submission as being sought to be canvassed on behalf of the State cannot be countenanced.

7. Evidently, the petitioner having submitted a representation, though not required, yet expressed her willingness to continue in service, thus leaving nothing to even presumption. The Act entitling her to an automatic extension in service, her date of superannuation falling with the period specified therein but she was prevented from performing duties beyond 31.08.2021, for the fault of the respondent-State.

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

9. A profitable reference can be made to the judgment in **Ramesh Kumar vs. Union of India**, (2015) 14 SCC 335, wherein Hon’ble the Supreme Court had observed that, “We are conscious that even in the absence of statutory provision, normal rule is "no work no pay". In appropriate cases, a court of law may take into account all the facts in their

entirety and pass an appropriate order in consonance with law. The principle of "no work no pay" would not be attracted where the respondents were in fault in not considering the case of the appellant for promotion and not allowing the appellant to work on a post of Naib Subedar carrying higher pay scale. In the facts of the present case when the appellant was granted promotion w.e.f. 01.01.2000 with the ante-dated seniority from 01.08.1997 and maintaining his seniority alongwith his batchmates, it would be unjust to deny him higher pay and allowances in the promotional position of Naib Subedar.” The foregoing dictum of law was followed by the Division Bench of this Court in **HVPNL vs. Sheelawanti** 2019 (1) SCT 58.

10. Cumulative consideration of the matter, persuades this Court to hold the petitioner entitled to the salary, minus pension for the period from 01.09.2021 to 31.03.2022. The same be released within a month, from the date when a web-print of this judgment is made available to the respondent-Department. Parties are to bear their own costs.

11. The petition stands disposed off in the above terms.

(AMAN CHAUDHARY)
JUDGE

07.02.2024
Hemant

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