

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1930-2023 (O&M)
Date of decision:- 22.02.2024

Hari Om
...Appellant(s)

Versus

The State of Punjab and others
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. L.S. Sidhu, Advocate,
for the appellant.

Mr. Salil Sabhlok, Senior Deputy Advocate General, Punjab.

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G.S. SANDHAWALIA, A.C.J. (ORAL)

1. The learned Single Judge vide order dated 22.09.2023 has declined to grant any relief in the writ petition i.e. CWP-13517-2019 filed by the writ petitioner (appellant herein).
2. The appellant having already retired on 30.09.2015 and, as such, his claim for promotion as JT Mechanic at a higher post had been rejected by the respondent-authorities vide order dated 27.11.2018 (Annexure P-9). The argument that the order of promotion was passed on 17.11.2015 (Annexure P-8), while granting the benefit to Kuldeep Raj and Baldev Singh, who were at Serial Nos. 504 and 514 respectively, whereas the writ petitioner was at Serial No. 499, does not cut much ice since the appellant had already retired when the juniors were promoted.

3. A perusal of the reply filed by the State of Punjab before the learned Single Judge would go to show that the writ petitioner had retired on 30.09.2015 and was on extension thereafter till 30.09.2016 and, therefore, no cause of action can accrue once he had superannuated and was serving on extension which is a mere concession granted by the State of Punjab and he had given an undertaking that he would have no such right.

4. A Coordinate Bench of this Court in CWP-23811-2015 titled ***Ajaib Singh and others Vs State of Punjab and others*** (decided on 20.11.2015), while considering the then prevalent Rule 3.26 of the Punjab Civil Services Rules, Volume I, Part I, had noticed that the employees who had opted for extension could not claim any benefits of promotion since the proviso provided that the government employees whose services were extended would not be entitled for promotion. The statutory rules provide for extension in service at the option of the employee and subject to certain conditions and there is no compulsion attached to the extension. Having opted for extension, they would have to accept all the conditions of extension as well. The said view was followed in LPA-237-2016 titled ***Paramjit Singh Ghuman Vs State of Punjab and others*** which was dismissed vide order dated 12.02.2016 upholding the order of the learned Single Judge who had relied upon ***Ajaib Singh's*** case (supra). The said order was further upheld in Special Leave to Appeal (C) No(s). 10455/2016 on 22.04.2016.

5. The principle of law, thus, is clearly laid down that an extension of service is a mere concession given by an employer to its employee which can also be unilaterally withdrawn. Therefore, having accepted the terms of the extension, the claim as such for promotion on the ground that the juniors were promoted would not be liable to be taken into consideration.

6. In such circumstances, we do not find any infirmity in the order of the learned Single Judge declining the relief.
7. The appeal being meritless, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

22.02.2024
Amodh Sharma

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