



232 **IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CWP-28237-2024 (O&M)
Decided on: 08.08.2025

Jaspal Singh

.... Petitioner

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajiv Atma Ram, Senior Advocate with
 Mr. Aman Bahri, Advocate with
 Mr. Bawa Karanveer, Advocate for the petitioner.

Mr. Rahul Rampal, Addl. AG, Punjab.

Mr. A.D.S.Jattana, Advocate for respondent No.3.

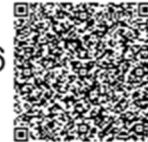
Mr. Kanwaljit Singh, Senior Advocate with
Ms. Anchal Kathuria, Advocate and
Ms. Muskan Sharma, Advocate for respondent No.4.

Harpreet Singh Brar, J. (Oral)

1. The present writ petition is filed under Article 226 of the Constitution of India seeking issuance of writ in the nature of *certiorari* for quashing of order dated 04.10.2024 (Annexure P-5) issued by respondent No.2 whereby the retirement order dated 30.09.2024 (Annexure P-4) was withdrawn qua respondent No.4.

FACTUAL BACKGROUND

2. Briefly, the facts are that the petitioner was promoted to the post of Additional Director with Punjab Energy Development Agency (hereinafter 'PEDA'). The next promotional designation is that of the Director for which only one post exists, as duly mentioned in Annexure A of the Punjab Energy Development Agency Service Rules, 2016 (hereinafter 'PEDA Rules').The



petitioner has three years of experience in regular service and outstanding/very good ACRs in the last four years. The erstwhile Director- respondent No.4 retired on 30.09.2024 as he attained the age of 58 years. However, his retirement order was illegally rescinded vide impugned order dated 04.10.2024 (Annexure P-5), in spite of the fact that the petitioner was eligible for the post of Director at the time of retirement of respondent No.4. Hence, the petitioner has moved the present writ petition, seeking quashing of impugned order dated 04.10.2024 (Annexure P-5).

CONTENTIONS

2. Learned Senior counsel *inter alia* contends that respondent No.4 had retired on 30.09.2024 as a Director of PEDDA as he attained the age of superannuation i.e. 58 years. Pursuant to the same, he was relieved vide order dated 30.09.2024 (Annexure P-4) and all retiral dues including gratuity and leave encashment were deposited in his account. However, vide impugned order dated 04.10.2024 issued by the Administrative Secretary of the Department of New and Renewable Energy Resource, respondent No.4 was granted an extension from 30.09.2024 to 29.09.2025, with the approval of the Chief Minister, Punjab. Earlier as well, the petitioner was given the additional charge of Director, PEDDA, as respondent No.4 was on leave up to 30.06.2023, vide order dated 12.06.2023 (Annexure P-9).

3. Further, learned Senior counsel refers to the PEDDA Rules and submits that as per Rule 5, the appointing authority for the posts of Director, Additional Director and Joint Director is the Chairman. Additionally, Rule 6 prescribes the method of promotion and specifically states that promotions shall be made on the basis of seniority-cum-merit. Rule 6(4) also prescribes the minimum educational qualifications and experience requirements for the



purpose of promotion, which are elaborated in Appendix B to the Rules. For the post of Director, the prescribed qualification is Graduation in Engineering or MBA with three years satisfactory regular service as Additional Director, and the petitioner satisfies all these prerequisites. He further draws the attention of this Court to Rule 12(d) which states that any issue not specifically covered by the Rules will be covered by the Punjab Civil Services Rules (hereinafter 'PCSR'). Learned Senior counsel further refers to notification dated 02.03.2020(Annexure P-6) whereby instructions were issued by the Government of Punjab, regarding granting extension of service to the employees beyond the date of retirement on superannuation. A perusal of Clause 4 of the said notification would indicate that Rule 3.26(a) of the Punjab Civil Service Rules, Volume I, Part 1 has been amended to state that extension of service can only be granted under exceptional circumstances, if the State Government considers it necessary and expedient in the public interest. Moreover, the proviso therein specifically calls for recording reasons for extension of service in writing. Learned senior counsel contends that a perusal of the impugned order would clearly indicate that not only has the extension been granted by an officer other than the appointing authority, the same has also been done without assigning any reasons. Further, the explanation given in the written statement with regard to compliance of Rule 3.26(a) of the PCSR cannot be taken into consideration as the legality of the impugned order has to be tested with respect to the very order vide which the extension was granted. Relying upon the judgment rendered by the Hon'ble Supreme Court in ***Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others, (1978) 1 SCC 405*** and submits that the validity of the order



must be judged only by the reasons so mentioned and cannot be supplemented by the fresh reasons in the written statement.

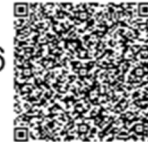
4. Furthermore, learned Senior counsel submits that objections have been taken qua eligibility of the petitioner for promotion to the post of Director on the ground that he does not possess a degree in engineering and is only a diploma holder. However, the said objection is contrary to the record as on 22.07.2011, vide Annexure P-15, the petitioner had informed the Joint Director that he has obtained his degree in mechanical engineering from Institute of Mechanical Engineering, Mumbai on 28.03.2011. The certificate issued by the Institute of Mechanical Engineering, Mumbai is also available at Annexure P-13. The adverse stand taken by the respondent-Agency appears to be motivated by the fact that the petitioner has challenged the impugned order, whereby extension was granted to respondent No.4. The petitioner has served respondent-Agency with complete dedication and diligence from the very inception i.e. 1991, when he was appointed and owing to his performance, he had been given additional charge of the post of Director on 12.06.2023(Annexure P-9). Learned Senior counsel has further relied upon the judgment rendered by the Hon'ble Supreme Court in ***Institution of Mechanical Engineers (India) through its Chairman vs. State of Punjab and others, (2019)16 SCC 95*** and submits that the validity of the qualification acquired by the petitioner in the year 2010 has been upheld by the Hon'ble Supreme Court as all certificates issued by the concerned institute upto 31.05.2013 were declared valid. Lastly, placing reliance on the judgment rendered by a Division Bench of this Court in ***K.G. Nanchahal vs. State of Punjab, 2002(1) SCT 485***, learned Senior counsel submits that an extension beyond the date of superannuation can only be granted in rarest of the rare case



and that too after due compliance of instructions issued by the State, if found in the public interest.

5. *Per contra*, learned counsel for the respondent-Agency i.e. respondent No.3 submits that petitioner has no vested right to challenge the extension granted to respondent No.4, especially when petitioner himself is not eligible for the post of Director. The engineering degree of the petitioner was declared invalid and same was conveyed to him on 05.04.2018 as is evident from Annexure R-4/2. As such, the petitioner was required to challenge the order vide which his degree was declared invalid. Since the petitioner has been declared ineligible, his right to challenge the extension of service of respondent No.4 stands extinguished. Learned counsel submits that the reliance of the petitioner on ***Institution of Mechanical Engineers (supra)*** is totally misplaced as the ratio culled out by the Hon'ble Supreme Court would not be applicable to the case of the petitioner since an exception has only been created for the purpose of employment in the Central Government. Moreover, respondent No.4 was granted an extension in view of his exceptional credentials and his contribution to PEDDA, while a complaint was received against the petitioner on 27.06.2023, when he was holding the current duty charge of the Director, making him ineligible and unsuitable.

6. Learned Senior counsel for respondent No.4 reiterates the stand taken by learned counsel for respondent No.3 and submits that there is no dispute with regard to the exceptional credentials of respondent No.4. As a matter of fact, respondent No.4 had sought extension well before his retirement. As such, the process of extension had commenced prior to his retirement and the necessary approval was granted on 30.09.2024 itself.



However, the same was conveyed on 04.10.2024 as 02.10.2024 and 03.10.2024 were gazetted holidays.

OBSERVATIONS AND ANALYSIS

7. Having heard learned counsel for the parties and after perusing the record, it appears that the petitioner is an Additional Director with PEDDA. Per Rule 2 and Annexure A of the PEDDA Rules, only a single post is available for the post of Director. However, instead of considering petitioner for the same, respondent No.2 extended the service of respondent No.4, erstwhile Director vide impugned order dated 04.10.2024 (Annexure P-5). It appears that a study of the PEDDA rules as well as the PCSR would aid in just adjudication of the matter at hand. The same are reproduced below:

PEDDA Rules

5. Appointing Authority

- 1) *The appointing authority in the case of Director/Additional Director/Joint Director shall be the Chairman.*
- 2) *For appointments to all other posts the appointing authority shall be the Chief Executive.*

6. Method of Promotions

- 1) *Promotion shall be made on the basis of seniority-cum-merit.*
- 2) *All Promotions to the post of Joint Director and above shall be done by the appointing authority on the recommendations of the departmental promotion committee set up by Chairman PEDDA.*
- 3) *If no suitable candidate is available for promotion, such posts may be filled in by transfer, by deputation or on foreign service as the appointing authority may decide.*
- 4) *The Minimum educational qualification and experience prescribed for recruitments/promotions shall be as given in Annexure-8. Under no circumstances shall the minimum education qualification & experience be relaxed except with amendment to these rules by the BOG.*
- 5) *All promotions to be made as per Punjab Government evaluation criteria.*



11. Retirement

The date of retirement of every employee of the Agency shall be the date, on which he/she attains the age of 58 years.

12. Discipline, Penalties, Appeals and others

- a) The Members of Service shall be governed by the Punjab Government Employees (Conduct) Rules-1966.
- b) In the matter of disciplinary action, the Member of Service shall be governed by the provisions of the Punjab Civil Service (punishment and Appeal) Rules-1970.
- c) The penalties which may be imposed, the authority empowered to impose such penalties, and the appellate authority shall be as specified in Annexure-C
- d) All the issues not covered under these Rules will be as per Punjab Government Civil Service Rules.**

Annexure B

i. ADMINISTRATIVE CADRE

Sr. No.	Nomenclature of posts	Number of Posts			Minimum Qualification for Direct Appointment	Qualification/Experience for promotion
		Direct	Promotion	Total		
1.	Director	-	01	01	--	Graduation in Engineering or MBA with three years satisfactory regular service as Additional Director

PCSR

"3.26 (a) Except as otherwise provided in this rule, the date of retirement of a Government employee shall be as follows, namely:-

- (i) fifty-eight years in the case of Group 'A', 'B' and 'C' employees; and
- (ii) sixty years in the case of Group 'D' employees:

Provided that **if the State Government is of the opinion that it is necessary and expedient so to do in public interest, the service of a Government employee or a class of Government employees may be extended** and governed in the following manner, namely:-

(A) the Government employees, belonging to Group 'A', 'B' and 'C' service, who are working on the second year of optional extension in service i.e. who have already attained the age of fifty-nine years and who are availing the second year of optional extension in service, or whose second year of optional extension in service is scheduled to start from the 1st day of April, 2020, shall retire on the 31st day of March, 2020, and the Government employees belonging to



Group 'D' service and the Persons with Disabilities who are working on the second year of optional extension in service after attaining the age of sixty-one years, or whose second year of optional extension in service is scheduled to start from the 1st day of April, 2020, shall retire on the 31st day of March, 2020;

(B) the Government employees belonging to Group 'A', 'B' and 'C' service, who are working on the first year of optional extension in service i.e. who have already attained the age of fifty-eight years and who are availing the first year of optional extension in service, or whose first year of optional extension in service is scheduled to start any time till the 1st day of September, 2020, shall, upon opting for such extension, retire on the 30th day of September, 2020, and the Government employees belonging to Group 'D' service and the Persons with Disabilities, who are working on the first year of optional extension in service after attaining the age of sixty years, or whose first year of optional extension in service is scheduled to start any time till the 1st day of September, 2020, shall, upon opting for such extension, retire on the 30th day of September, 2020; and

(C) the Government employees belonging to Group 'A', 'B' and 'C' service, who, after attaining the age of fifty-eight years are on the first year of optional extension in service and whose first year of optional extension in service is scheduled to end before the 30th day of September, 2020, shall retire in accordance with clause (d), when he completes the first year of optional extension in service, and the Government employees belonging to Group 'D' service and the Persons with Disabilities, who, after attaining the age of sixty years are on the first year of optional extension in service and whose first year of optional extension in service is scheduled to end before the 30th day of September, 2020, shall retire in accordance with clause (d), when he completes the first year of optional extension in service :

Provided further that under exceptional circumstances, if the State Government considers it necessary and expedient so to do in public interest, it may extend the service of the Government employee beyond the aforesaid limit, for the reasons to be recorded, in writing."

8. Adverting to the factual matrix of the matter at hand, it appears that Rule 11 of the PEDDA Rules clearly state that the age of retirement for employees of the respondent-Agency would be 58 years. Accordingly, on



attaining the age of retirement, respondent No.4 was relieved of his duties vide order dated 30.09.2024 (Annexure P-4). Admittedly, the retiral benefits were credited in his account as well. The fact of disbursement of retiral benefits in addition to the fact that impugned order dated 04.10.2024 (Annexure P-5) was not passed by the appointing authority indicates that respondent No.4 was being treated as a retired employee till 04.10.2024. Moreover, the Chairman gave his approval on 07.10.2024 (Annexure R-3/3), without recording any reasons, merely in view of the order dated 30.09.2024 (Annexure P-4) passed by respondent No.2. Since no independent assessment was made by application of mind by the Chairman, the said act cannot be held to be in alignment with Rule 3.26 of PCSR. However, it is the case of respondent No.4 that the process of extension of his service was already underway at the time of his retirement. It is curious as to how respondent No.4 can avail the benefits accrued to a retired employee and also be considered for extension, an opportunity specifically available to employees in service. Further, the proviso to Rule 3.26 of the PCSR clearly states that for the State government can only consider an employee for extension of service beyond retirement in exceptional circumstances and mandates recording reasons for the same in writing. Contrary to the rather explicit requirement, impugned order dated 04.10.2024 (Annexure P-5) was passed by respondent No.2, rescinding the retirement order of respondent No.4. A perusal of impugned order dated 04.10.2024 (Annexure P-5) does not indicate any particular reasons for extension of service of respondent No.4 but makes a vague reference to “*important works and policies going on in the department.*” Further, no reasons have been recorded in the impugned order stating how extension of service of respondent No.4 would serve the public interest.



9. At this juncture, it would be profitable to refer to the judgment rendered by a Constitution Bench of the Hon'ble Supreme Court in ***Mohinder Singh Gill (supra)*** wherein, speaking through Justice Krishna Iyer, the following was opined:

8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. In Gordhandas Bhanji case :

"Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself".

Orders are not like old wine becoming better as they grow older."

Thus, the explanation put forth in the written statement to justify the impugned order cannot be taken into consideration.

10. Further still, the Hon'ble Supreme Court has often reiterated that where any statutory provision provides a particular manner for doing a particular act, then, that thing or act must be done in accordance with the manner prescribed in the said statute. Reliance in this regard can be placed on ***Kunwar Pal Singh (dead) by LRs vs. State of U.P. and others (2007) 5 SCC 85***; ***State of Uttar Pradesh vs. Singhara Singh and others AIR 1964 SC 358*** and ***Hukam Chand Shyam Lal vs. Union of India and others AIR 1976 SC 789***. Similar observations were made by a three Judge Bench of the Hon'ble Supreme Court in ***Anuradha Bhasin v. Union of India (2020) 3 SCC 637*** where, speaking through Justice N.V. Ramana, it has held as under:-



"98. We also direct that all the above procedural safeguards, as elucidated by us need to be mandatorily followed. In this context, this Court in the *Hukam Chand Shyam Lal (supra)* and observed the following:-

*"18. It is well settled that where a power is required to be **exercised by a certain authority in a certain way, it should be exercised in that manner or not at all,** and all other amodes (sic) of performance are necessarily forbidden. It is all the more necessary to observe this rule where power is of a drastic nature."*

Further, neither the impugned order was passed in compliance of Rule 3.26 of PCSR nor the drill of prescribed procedure was followed. On this ground alone, the impugned order deserves to be set-aside as it suffers from an incurable illegality.

11. As far as the locus of the petitioner to challenge the impugned order is concerned, the petitioner was granted additional charge of Director, PEDDA vide order dated 12.06.2023 (Annexure P-9) previously as well, indicating that he was eligible and suitable enough to hold the said position. In addition to this, considering that the petitioner was qualified in terms of the prescribed Rules for promotion to the post of Director, which gives rise to a legitimate expectation to be promoted. Therefore, it cannot reasonably be said that he lacked the *locus standi* to challenge the impugned order dated 04.10.2024 (Annexure P-5). Reliance in this regard can also be placed on the judgment rendered by a Division Bench of this Court in *K.G. Nanchahal(supra)*, speaking through Justice Swatenter Kumar, the following was opined:

*"31. There is no doubt that concerned departments have been consulted and the competent authority had passed the order for continuation/re-employment of the respondent No. 2. **The material question is whether any of these records indicate application of mind by the competent authority in regard to public grounds, exceptional circumstances and need for re-employment of the said officer in the face of the instructions.** We must notice that the record produced before us is neither data based nor is it satisfying any of the above ingredients. **In***



fact it appears that extension and re-employment has been granted on the mere asking of the said respondent whose own note is devoid of any substance and merit. (emphasis applied by us)

xxx

xxx

xxx

35. Extension in service or re-employment of a Government employee is an exception to the rules afore-stated. Rudiments of such exception are existence of exceptional circumstances, public grounds and compliance to the instructions issued by the State. Ideal would be the situation, where these ingredients are satisfied on data based study and service profile of a Government employee so as to provide greater transparency in the State action. Such compliance would obviously eliminate element of arbitrariness in such action. Arbitrariness in State action, particularly where it denies the right of consideration to other eligible officers for promotional posts thereby undermining the principle of equality enshrined in Articles 14 and 16 of the Constitution of India, would vitiate the State action in law. In the present case, except for the note initiated by respondent No. 2 himself in this regard, the basic elements like the need of the State, the public grounds, existence of exceptional circumstances and non-availability of other eligible officers for promotion for justifying an order of re-employment, are conspicuously absent in the record produced by the respondent-State before the Court. The competent authority has failed to discernly decipher the public grounds or public interest to the individual interests of respondent No. 2.

36. For the reasons recorded above and after perusing the records produced before the Court, we are of the considered view that neither exceptional circumstances existed, nor were there any public grounds, before the competent authority while passing the order of re-employment of respondent No. 2 to the post of Chief Architect, Punjab. In fact the impugned orders violate and offend the rules and the instructions issued by the Government dated 17.2.1967. The orders suffer from the vice of arbitrariness and are opposed to the accepted canons of service jurisprudence, more particularly, in relation to legitimate expectancy of a Government employee in matters relating to promotion to higher posts in the existing hierarchy of the department. Thus, we have no hesitation in quashing the impugned orders dated 27.4.2001 and dated 29.6.2001, which we do hereby quash and set aside. The State is directed to take appropriate steps forthwith in accordance with law. However, in the facts and circumstances of the case, there shall be no order as to costs.” (emphasis added)

Moreover, the right of the petitioner is reinforced by the fact that the process of granting additional charge of Director, PEDDA, to him was initiated on 30.09.2024 (Annexure P-19). In fact, it was specifically stated that the petitioner was the next senior officer with considerable experience of 36



years, thereby proving the fact that he was suitable and eligible for the post of Director, PEDDA.

12. Further still, the eligibility of the petitioner was contingent on him satisfying the conditions set out in Annexure B of the PEDDA Rules. It is the case of the petitioner that he has already been in regular service as Additional Director for at least 03 years and obtained a degree in Mechanical Engineering, therefore, he satisfies the criterion to be appointed as Director, PEDDA. The degree of the petitioner was considered invalid by the respondent – Agency by relying on the judgment delivered in the case of *Orissa Lift Irrigation Corp. Ltd. Vs Rabi Sankar Patro 2017 AIR SC 5179* by the Hon’ble Supreme Court, as discernible from order dated 05.04.2018 (Annexure R-4/2). However, the *Orissa Lift Irrigation’s case (supra)* was considered by the Hon’ble Supreme Court in *Institution of Mechanical Engineers (supra)*, while declaring the degree of petitioner valid. Be that as it may, issue with respect to the validity of the degree has not been raised before this Court as such; it would not be prudent to make any further comments with respect to the same.

13. No other arguments except for those addressed above, have been raised.

CONCLUSION

14. In view of the discussion above, the present petition is allowed and the impugned order dated 04.10.2024 (Annexure P-5) is hereby set aside.

15. Pending miscellaneous application(s), if any, shall also stand disposed of.

08.08.2025
sonia

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/non-speaking?	Yes
Whether reportable?	Yes