103

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision: 07.03.2026

CWP-1834-2003

KASHMIRA SINGH ....Petitioner

Versus

THE BRITISH INDIA CORPORATION LTD. AND ANR. ....Respondents

CWP-11161-2004

VIJAY KUMAR ARORA ....Petitioner

Versus

THE BRITISH INDIA CORP LTD AND ANR ....Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Arshdeep, Advocate for
Ms. Shivani Sharma, Advocate
for the petitioner.

Mr. Varun Baanth, Advocate and
Mr. Ramesh Kumar, Advocate
for the respondents.

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SANDEEP MOUDGIL, J (Oral):

1. By way of this common order, I propose to decide two Civil writ petitions titled above as the issue involved is same. The facts shall primarily be derived from CWP-1834-2003.

Prayer

2. Civil Writ Petition under Articles 226/227 of Constitution of India praying for a writ of certiorari, mandamus or any other appropriate writ, order or direction which this Court may deem fit under the circumstances of the case declaring the notice dated 3.1.2003 (Annexure P-1) ordering the retirement of the petitioner from services after obtaining the age of 58 years w.e.f. 31-03-2003 afternoon to be null and void, inoperative and for a writ of mandamus directing the respondents to allow the petitioner to continue up to the age of 60 years.

Factual Backdrop

3. The petitioner, a citizen of India, is an employee of British India Corporation Limited, a Government of India undertaking under the Ministry of Textiles and thus an authority within the meaning of Article 12 of the Constitution of India. The Corporation operates, inter alia, a unit at Dhariwal, District Gurdaspur, where the petitioner was employed.

4. The petitioner joined the New Egerton Woollen Mills, Dhariwal in September 1967 as a Semi-Clerk and, through promotions, reached the post of Commercial Assistant Grade-I in 1989–90. Throughout his service, the petitioner performed clerical duties and did not discharge any supervisory or managerial functions. His service conditions are governed by the Modified Certified Standing Orders applicable to the establishment.

5. As per Standing Order 31, the age of superannuation for clerical staff is 60 years. The petitioner was due to attain the age of 58 years in March 2003 and, in terms of the Standing Orders, was entitled to

continue in service till attaining the age of 60 years.

6. However, the respondent Corporation, in violation of the Certified Standing Orders, issued an order dated 03.01.2003 directing that the petitioner would retire on 31.03.2003 upon attaining the age of 58 years. This effectively reduced the age of superannuation from 60 to 58 years without any amendment to the Standing Orders and without affording any opportunity of hearing to the petitioner.

7. It is further submitted that similar retirement orders passed by the Corporation in other cases were challenged before the Hon'ble High Court of Judicature at Allahabad, wherein interim protection was granted. Despite the existence of such orders and without any modification in the Standing Orders, the respondents proceeded to retire the petitioner prematurely.

8. Aggrieved by the arbitrary, unlawful, and unilateral action of the respondents in curtailing his service tenure contrary to the governing Standing Orders, the petitioner has approached this Hon'ble Court by way of the present writ petition.

Contention

On behalf of the petitioner

9. Learned counsel for the petitioner contends that the impugned order retiring the petitioner at the age of 58 years is wholly illegal, arbitrary, and in direct violation of the Certified Standing Orders, which clearly prescribe the age of superannuation as 60 years.

10. It is argued that in the absence of any amendment to the Standing Orders, the respondent Corporation had no authority in law to

curtail the petitioner's service tenure.

11. It is further submitted that the petitioner, being a clerical employee, is governed strictly by the said Standing Orders, and his conditions of service cannot be altered to his disadvantage without following due procedure. The impugned action has been taken without issuing any notice or affording an opportunity of hearing, thereby violating the principles of natural justice.

12. Counsel also contends that similar actions of the respondents have already been stayed by the Allahabad High Court in identical matters, and therefore, the impugned order is not only arbitrary but also contrary to settled legal principles. Accordingly, it is submitted that the petitioner is entitled to continue in service till the age of 60 years, and the impugned order deserves to be set aside.

<u>On behalf of the respondents</u>

13. Learned counsel for the respondents contends that the present writ petition is not maintainable as the petitioner, being a workman, is governed by the provisions of the Industrial Disputes Act, 1947, and has an effective alternative remedy of raising an industrial dispute regarding the change in age of retirement. It is argued that without exhausting the statutory remedy under Section 10(1)(c) of the Act, the petitioner cannot invoke the writ jurisdiction of this Court.

14. It is further submitted that the age of retirement of the employees has been validly reduced from 60 to 58 years as a matter of policy. The employer has an absolute right to fix the age of retirement of its employees, which also includes the right to roll back the age of retirement.

Such a decision, being a policy matter taken in public interest, is not open to judicial interference and is supported by settled law laid down by the Supreme Court.

15. Counsel also contends that the reliance placed by the petitioner on the Certified Standing Orders is misplaced, and no individual notice or opportunity of hearing is required in matters of policy decisions such as revision of retirement age. The interim orders passed by the Allahabad High Court in similar matters are stated to have no binding effect and do not constitute a precedent.

16. Lastly, it is submitted that the petition raises no substantial question of law, the impugned order is legal and justified, and therefore, the writ petition is liable to be dismissed.

17. Heard.

Analysis

18. The primary question for consideration is whether the respondent-Company was justified in reducing the age of superannuation of the petitioner from 60 years to 58 years without any amendment to the governing Certified Standing Orders.

19. It is an admitted position that the petitioner's service conditions are governed by the Certified Standing Orders, and Order 31 thereof expressly prescribes the age of superannuation as 60 years. The petitioner was initially appointed under terms that clearly entitled him to continue in service until attaining the said age, and such a stipulation forms an integral part of the conditions of employment, which cannot be unilaterally altered to the prejudice of the employee. Order 31 reads as

under:

> *"31. Superannuation: The services of any employee may be terminated on his attaining the age of superannuation on his reaching the age of 60 (sixty). The management may, however, waive this condition in exceptional cases, extending the age of superannuation in case of a particular workman by an order in writing for the number of years specified therein. The superannuated workman shall be entitled, on retiring from service, to receive gratuity at the rates specified below, and such dues shall be paid to the workman within fifteen days of his retirement."*

20. The objection of the respondents regarding maintainability on the ground of alternative remedy under the Industrial Disputes Act, 1947, is untenable. It is well settled that the existence of an alternative remedy is not an absolute bar to the exercise of writ jurisdiction, particularly where the impugned action is arbitrary, without jurisdiction, or in violation of statutory provisions. In the present case, the retirement of the petitioner at 58 years is ex facie contrary to the Certified Standing Orders having statutory force, and thus raises a substantial question of Law and procedural fairness. The respondent-Corporation being an authority under Article 12, as can be substantiated from the Act placed on record by the petitioner, annexed herein as Annexure P-4, its actions are amenable to writ jurisdiction. Accordingly, the objection is rejected.

21. The contention of the respondents that the employer has an absolute right to fix or roll back the age of retirement as a matter of policy cannot be accepted in the present case. While it is true that an employer may determine service conditions, such power is subject to statutory

provisions and binding service rules. In the absence of any amendment to the Certified Standing Orders, which have statutory force, the respondents could not have reduced the age of superannuation by way of an executive decision.

22. Moreover, the petitioners having joined the organization decades ago and having worked in the same, had complete knowledge and expectation of being governed by the Certified Standing Orders that were existing during their service. The action of the respondent to not implement the same is prima facie arbitrary. This view of mine, may be supported by the decision of the Supreme Court in the case of ***"Bannari Amman Sugars Ltd. v Commercial Tax Officer (2005) 1 SCC 625)."*** wherein it was observed that:

> *"8. A person may have a 'legitimate expectation' of being treated in a certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise either from a representation or promise made by the authority, including an implied representation, or from consistent past practice. The doctrine of legitimate expectation has an important place in the developing law of judicial review. It is, however, not necessary to explore the doctrine in this case, it is enough merely to note that a legitimate expectation can provide a sufficient interest to enable one who cannot point to the existence of a substantive right to obtain the leave of the court to apply for judicial review. It is generally agreed that 'legitimate expectation' gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation to be confined mostly to right of a fair hearing before a decision which results in negativing a promise or withdrawing an undertaking is taken. The doctrine does not*

> *give scope to claim relief straightway from the administrative authorities as no crystallized right as such is involved. The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise. In other words, where a person's legitimate expectation is not fulfilled by taking a particular decision then decision maker should justify the denial of such expectation by showing some overriding public interest."*

The principle of legitimate expectation is a doctrinal guarantee that the State will not speak in one voice for decades and then whisper a contrary position at the twilight of service. Law does not permit actions which end up causing disadvantage to the employee who has spent years of his life in service and placed trust in the organization.

23. The reliance placed by the respondents on policy decisions and judicial precedents is misplaced, as those would apply only where such policy is framed in accordance with law. In the present case, no such lawful modification of service conditions has been brought on record. On the contrary, the action of the respondents amounts to unilateral alteration of a vested service condition, which is impermissible in law.

24. Thus, the action of the respondents in retiring the petitioner at the age of 58 years, in the absence of any enabling provision or amendment to the Standing Orders, is arbitrary, illegal, and unsustainable.

<u>Conclusion</u>

25. In view of the foregoing analysis, the writ petition is allowed. The impugned order dated 03.01.2003, whereby the petitioner was retired

at the age of 58 years, is hereby quashed. The respondents are directed to permit the petitioner to continue in service until attaining the age of 60 years in accordance with the Certified Standing Orders governing his service conditions, and to extend all consequential benefits arising therefrom.

26. The writ petitions stand **allowed** in the aforesaid terms.

27. Pending miscellaneous application(s), if any, stand disposed of accordingly.

27. A photocopy of this order be placed on file of connected case.

(SANDEEP MOUDGIL)
JUDGE

07.03.2026
anuradha

1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No