

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/959/2018

Date of decision: 11.12.2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

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Prof. Dr. Barhm Parkash son of Shri Parma Ram, aged 59 years, Officiating Principal, Post Graduate Government College, Sector-11, Chandigarh, resident of Principal Lodge, Post Graduate Government College, Sector-46, Chandigarh-160046. (Group-A).

... APPLICANT

VERSUS

1. Chandigarh Administration, Chandigarh through its Administrator, Union Territory, Chandigarh-160009.
2. The Advisor to the Administrator, Chandigarh Administration, U.T. Secretariat, 1st Floor, Sector-9, Chandigarh-160009.
3. The Education Secretary, Chandigarh Administration, U.T. Secretariat, 1st Floor, Sector-9, Chandigarh-160009.
4. The Director, Higher Education, Chandigarh Administration, Additional Deluxe Building, 1st Floor, Sector-9, Chandigarh-160009.

... RESPONDENTS

PRESENT: Sh. Arvind Bansal, counsel for the applicant.
Sh. Arvind Moudgil, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. By means of present O.A., the applicant assails order dated 01.08.2018 (Annexure A-7), whereby he has been relieved from duty

on expiry of one year of extension period, granted after attaining the age of superannuation.

2. Facts before us are not in dispute.
3. Applicant initially joined service with Chandigarh Administration as Lecturer in Military studies in College Cadre on 22.09.1983. Subsequently, nomenclature of the discipline was changed to Defence Studies. Services of the applicant were regularized on 25.01.1996. On 22.09.1991, applicant was given Lecturer (Senior Scale) and thereafter he was given selection grade on 27.07.1998. On 01.1.2006, post of Lecturer was re-designated as Associate Professor. The next promotional post is that of Professor and based on recommendation of Selection Committee of Panjab University, applicant was promoted as such on 20.03.2016 and was posted at Post Graduate Government College, Sector-11, Chandigarh. He was due for retirement on attaining the age of superannuation on 31.07.2017.
4. In terms of Government policy dated 08.11.2012 issued by Govt. of Punjab, extension of two years in service beyond the age of retirement, was introduced which was subsequently amended vide order dated 30.10.2015 amending the rule 3.26 of the Punjab Civil Services Rules, Volume-I, Part-I, and substituting new clauses (a) and (b). The said notification was adopted by Chandigarh Administration vide letter dated 16.11.2015. The applicant submitted willingness to continue in terms of the said policy and he was granted extension in service for one year from 01.08.2017 to 31.07.2018. However, the respondents have passed impugned order whereby they have retired

him from service and impliedly denied second year extension in service. Against this order, the applicant is before this Court.

5. The applicant has taken various grounds for invalidation of the impugned order, first being that it is a non-speaking order as no reasons have been given by the respondents for not granting him second year extension. Learned counsel for the applicant submitted that order is non-speaking and cryptic. However, in their written statement, respondents have taken ground that there is a complaint against the applicant and matter is under investigation, therefore they have not granted him second year extension. He submitted that the complaint which has been lodged with the police station has already been closed vide order dated 22.10.2018. Thus, even if it is assumed that there is something against applicant though he submitted that there is nothing even then respondents can reconsider his case for second year extension, as that case has no relevancy.
6. Respondents while resisting the claim of the applicant have taken objection that extension cannot be claimed as a matter of right and there are certain parameters for granting extension. He submitted that due to missing ACRs of 2012-13, a view has been taken by the competent authority to get the matter investigated and a complaint was lodged against applicant with the SHO Police Station, Sector-11, Chandigarh, to investigate the matter. Since matter was under investigation, therefore, competent authority decided not to grant second year extension. Since applicant is under cloud, therefore, rightly he has been denied extension.

7. We have given our thoughtful consideration to the entire matter and have perused pleadings with able assistance of learned counsel for the parties.
8. A perusal of pleadings will show that two year extension, beyond the age of retirement, is provided under notification dated 30.10.2015 (annexure A-2), whereby Punjab Government issued Punjab Civil Services (Second Amendment), Rules, 2015 amending rule 3.26 of sub rule a and b where they have given provision for extension beyond the age of retirement to employees provided certain parameters are met out. The applicant had given willingness for continuation of service beyond the age of retirement. At the first instance, willingness of the applicant to avail benefit of extension in service for two years was accepted but he was granted extension up to 31.07.2018. For second extension starting from 01.8.2018, the impugned order has been passed where, he has been relieved from service impliedly rejecting second extension. Though impugned order is non-speaking, as it does not reflect reasons, but in the written statement respondents have pointed out that there was a complaint against the applicant, therefore, his case was not considered for grant of second extension.
9. It is settled proposition of law that an order cannot be supplemented by subsequent order or by giving explanation in the written statement. It has to be tested on its own strength. Order has to be clear as to why claim of a person has been rejected for grant of a relevant benefit. Be that as it may, as informed by learned counsel for the applicant, similar complaint was earlier made against applicant and under a mischief a second complaint was made so that he cannot

get second extension. He submitted that even that complaint has been investigated and no truth has been found against him and competent authority has decided to close that complaint.

10. Though applicant cannot claim extension as a matter of right but once he has been granted extension for one year and second year extension has been withheld due to a complaint which has been decided and closed in his favour, therefore, the respondents cannot withhold second year extension without any reason upon a filed complaint. Even the impugned order cannot stand on its own legs because it does not contain any reason, and as per law settled by the Apex dispensation, an order which involves civil consequences, has to have reasons, for non-grant of particular benefit so that the person, whose right has been taken away so that he can challenge the same in a judicial forum. Failure to give reasons amounts to denial of justice. The administrative authority that is discharging quasi judicial duty is required to give reasons while rejecting any claim. Because if the reasons are given then it will be easier for the applicant to challenge the order effectively before the Court of law by concentrating only on those points which did not find favour to the authority.
11. Even in respect of administrative orders Lord Denning M.R. in **Breen v. Amalgamated Engg. Union** (1971) 1 All ER 1148, observed: "The giving of reasons is one of the fundamentals of good administration". In **Alexander Machinery (Dudley) Ltd. V. Crabtree** 1974 ICR 120 (NIRC) it was observed : "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived

at". Reasons substitute subjectivity by objectivity. The law laid down by the lordships of Honourable Supreme Court in the case of **Raj Kishore Jha versus State of Bihar & Others**, 2003(11) CC 519 has again be reiterated in **Ram Phal Vs. State of Haryana**, 2009(3) SCC 258, decided on 6.2.2009 stating that "reason is the heartbeat of every conclusion. Without the same, it becomes lifeless".

12. In the wake of above discussion, the impugned order is hereby quashed and set aside. Matter is remitted back to the respondents to reconsider the case of the applicant for grant of second year extension in terms of changed circumstances for which second extension was withheld. Such consideration be completed within a period of 15 days from the date of receipt of a certified copy of this order. No order as to the costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 11.12.2018.
Place: Chandigarh.

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