

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 03.12.2018

**ORIGINAL APPLICATION NO. 060/00157/2018 &
M.A. NO. 060/01772/2018**

Chandigarh, this the 10th day of January, 2019

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

...
Jagmohan Singh son of late Sh. Gurbachan Singh aged 58 years, Sr. Assistant, Group 'B', Department of Animal Husbandry, U.T. Chandigarh, & R/o House NO. 1675, Sector 23-B, Chandigarh.

....APPLICANT

(By Advocate: Shri Jagdeep Jaswal)

VERSUS

1. Chandigarh Administration through its Home Secretary, 4th Floor, U.T. Secretariat, Sector 9, Chandigarh.
2. The Adviser to the Administrator-cum-Chief Vigilance Officer, Chandigarh, 4th Floor, U.T. Secretariat, Sector 9, Chandigarh.
3. Finance Secretary-cum-Administrative Secretary, 4th Floor, U.T. Secretariat, Sector 9, Chandigarh.
4. Estate Officer, Sector 17, U.T. Chandigarh.

....RESPONDENTS

(By Advocate: Shri Rakesh Verma)

ORDER

SANJEEV KAUSHIK, MEMBER (J)

The applicant by means of present Original Application (O.A.) has assailed the impugned order dated 2.2.2018 (Annexure A-1), whereby his request for grant of extension in Government service beyond the age of retirement has been rejected. He has also sought invalidation of impugned order alongwith payment of all consequential benefits.

2. Before us, the facts of the case are not in dispute. The applicant, who joined the Chandigarh Administration on 21.8.1980, was due for retirement on attaining the age of superannuation on 31.12.2017. As per Punjab Govt. notification dated 30.10.2015 (Annexure A-7), which has been issued in exercise of powers conferred under Article 309 of the Constitution of India amending the Punjab Civil Services Rules, Volume I, Part I by notifying the Punjab Civil Services (Second Amendment) Rules, 2015 Rule 3.26, sub-rules (a) and (b) have been substituted and it has been notified that Group 'A', 'B' and 'C' employees will continue in service till 58 years i.e. age of retirement except 60 years in case of Group 'D'. They further provide that in public interest the Government may decide to extend service of Government employees or a class of Government employees for a period of two years or yearly basis subject to giving an option within a period of three months before the date of retirement by the Government employee, who seeks extension. It has further been provided that a Government employee, who is already on extension, shall also give fresh option within a period of one month from the date of publication of these rules. The above notification was duly adopted by the Chandigarh Administration. The applicant who was due for retirement on 31.12.2017, well within the time, made a request to grant him extension of service beyond the date of retirement in terms of Punjab Govt. notification dated 30.12.2015. The said request was declined by the department due to lack of vigilance clearance. Hence the present O.A.

3. The respondents, while resisting the claim of the applicant, have taken various grounds to support the impugned order; firstly that the case of the applicant for extension in service was considered by them and report was called from the Chief Vigilance Officer, who vide its letter dated 17.11.2017 informed that the vigilance enquiry dated 30.1.2015 is still pending against the applicant. When a meeting was convened, where the case of similarly placed persons like the applicant for extension in service were considered his case was also examined in the meeting held on 29.12.2017 in terms of instructions dated 30.10.2018, but was rejected because of pendency of vigilance clearance and that a recommendation has been made to register an FIR against all officials involved in the case. Based upon the minutes of meeting, impugned order has been passed declining the extension in service beyond the date of retirement.

4. We have heard the learned counsel for the parties, and gone through the pleadings available on record.

5. Shri Jagdeep Jaswal, learned counsel for the applicant, vehemently argued that the impugned order rejecting the claim of the applicant for extension in service beyond the age of retirement is illegal, arbitrary and liable to be set aside on two counts; firstly that the rules and instructions which the respondents are relying upon while rejecting his claim have been superseded because once the statutory rules have been framed governing the field, then the instructions cannot be followed as the respondents have rejected his claim based upon the criteria laid down in the instructions for

having vigilance clearance thus such action is liable to be set aside; and secondly the respondents cannot withhold his order of extension in service merely on the ground that vigilance clearance has not been issued by the concerned department. Therefore, he prayed that the impugned order be set aside and desired relief be extended to him.

6. Per contra, Shri Rakesh Verma, learned counsel for the respondents, supported the impugned order and submitted that based upon the advice given by the Vigilance Department indicating the involvement of the applicant in the vigilance enquiry and subsequently referring the matter to the concerned authority for registration of an FIR against all the officials involved in the case, the Competent Committee in its meeting held on 29.12.2017 have considered case of the applicant in view of the proposal in terms of Rule 3.26 (a) of the Punjab Civil Services Rules, Volume I (Part I) and have decided to reject extension because of pendency of FIR against the applicant. He further argued that extension in service beyond the date of retirement cannot be claimed as a matter of right. It is for the government to decide as to whom the extension can be given.

7. We have given our thoughtful consideration to the entire matter and rival submissions made on behalf of the parties.

8. It is not in dispute that extension in service beyond the date of retirement cannot be claimed as a matter of right. It is only a concession which earlier flow from instructions of Govt. of Punjab which subsequently took shape of amendment in Rule 3.26 (a) of

the Punjab Civil Services Rules Volume I (Part I) where the Government decided to grant extension in service for two years on year wise basis to government employee after the date of retirement. It is not that a person who attained age of retirement can seek his claim that he be allowed to continue in service for another two years without there being an assessment of his service record. As is seen from the language of the rules, it makes clear that it is only in public interest that extension can be granted. But, it is equally important that there cannot be any room for arbitrariness, while considering cases for extension in service. Each case has to be considered consciously. Pleadings suggest that the case of the applicant was considered by a Committee under the Chairmanship of Finance Secretary-cum- Secretary Estates, Chandigarh Administration with three other officers in terms of Rule 3.26 (a) of the Punjab Civil Services Rules Volume I (Part I) and after analyzing the fact that a recommendation has been made by the Superintendent of Police (Vigilance) to register an FIR against all the officials involving in the case and matter is still pending adjudication and vigilance clearance has not been issued to the applicant, they decided not accede to his request for extension in service beyond the age of retirement. This can be seen from Annexure R-4 page 54 of the paper-book. This fact has also not been disputed by the applicant that in fact vigilance clearance was withheld because of pendency of vigilance enquiry. Thus, we are of the considered view that the impugned order does not deserve any interference. Our view is also fortified by the judgment

of the jurisdiction High Court in the case of **Gurmeet Singh Randhawa vs. State of Punjab and Another** reported in 2016 (2) SLR 376 where a complaint was made for violation of natural justice while withdrawing grant of extension in service after date of retirement. The Hon'ble High Court after analyzing the law on the subject have dismissed the plea raised by the applicant even for compliance of principles of natural justice by holding that extension in service beyond the age of retirement is a concession which can be withdrawn at any time. It is discretion of the Government.

9. In the wake of above, the O.A. is dismissed being devoid of merit with no order as to costs. Pending M.A. No. 060/01772/2018 also stands disposed of.

(P.GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 10.01.2019
`SK'

