

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 17038 of 2013

Pronounced On : 31.03.2015

Tikka Ram Petitioners

VS.

State of Punjab and others Respondents

Case No. : C. W. P.No. 23764 of 2013

Pronounced On : 31.03.2015

Shashi Pal Petitioners

VS.

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Vikas Chatrath, Advocate
for the petitioner.

Mr. Suresh Singla, Addl. Advocate General, Punjab.

Mr. I. S. Sidhu, Advocate
for respondent no. 3.

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DEEPAK SIBAL, J. :

Through the present order, I tend to decide two connected writ

petitions being C. W. P. No. 17038 of 2013 titled Tikka Ram vs. State of Punjab and others and C. W. P. No. 23764 of 2013 titled Shashi Pal vs. State of Punjab and others as the issue of law raised in both the petitions is similar.

Shorn of unnecessary details, the petitioner in C. W. P. No. 17038 of 2013, who was working as a Safai Mate in Municipal Council, Sirhind, Fatehgarh Sahib (hereinafter referred to as – the Council), on attaining the age of 60 years, was to superannuate on 28.02.2013, but before that could happen, on the strength of the notification by the State of Punjab dated 08.10.2012 (Annexure P-1) and instructions dated 27.02.2013 (Annexure P-4), pertaining to grant of extension in service of the officers/officials of the Public Sector Undertakings, Autonomous Bodies and Co-operative Institutions, he made an application for the grant of such extension. The denial of such extension gave him a cause to approach this Court seeking quashing of order of his superannuation and a direction to the respondents to grant him extension in service as per the policy decision dated 08.10.2012 and instructions dated 27.02.2013, as referred to above.

So far as the petitioner in C. W. P. No. 23764 of 2013 is concerned, he was working as a Driver with the respondent Council. He was to superannuate on 30.09.2013, but as per the above referred notification dated 08.10.2012 read with the instructions dated 27.02.2013, a Resolution dated 08.07.2013 was passed by the respondent Council through

which he was sought to be granted extension in service. However, this Resolution was subject to approval by the Government and when such approval was sought, it was responded to by the Government through letter dated 27.08.2013, through which the issue was left to the discretion of respondent Council to be decided as per the instructions of the Government dated 27.02.2013. In pursuance to the letter dated 27.08.2013, the Council reconsidered the matter and through order dated 27.09.2013, it was finally decided that no extension could be granted to the petitioner. It is this order dated 27.09.2013, which has been impugned by the petitioner before this Court.

I have heard learned counsel for the parties and with their able assistance, have also perused the record.

While arguing C. W. P. No. 17038 of 2013, learned counsel for the petitioner submitted that the case of the petitioner is fully covered by the notification dated 08.10.2012 read with the instructions dated 27.02.2013 issued by the Government of Punjab as these were to apply to all those officers/officials, who were to superannuate after the date of the instructions dated 27.02.2013. Further, learned counsel for the petitioner, alleging gross discrimination, drew my attention to an order dated 01.07.2013 (Annexure P-8), through which, while relying on the instructions dated 27.02.2013, another employee of the respondent Council namely Dalwinder Singh had been granted extension in service. Still

further, learned counsel for the petitioner referred to another order dated 23.03.2013 passed by the Department of Local Government, Punjab, wherein it had been virtually admitted that the instructions of the Government of Punjab dated 27.02.2013 would apply in the case of an employee of Municipal Council, Khanna. While relying on this order, it was argued that once the Government had made applicable the above policy decision dated 27.02.2013 to an employee of Municipal Council, Khanna, then there was no reason in law or in fact not to apply the instructions of the Government of Punjab dated 27.02.2013 upon another Municipal Council of the State of Punjab i.e. the respondent Council.

In support of the above submissions, learned counsel for the petitioner relied upon a judgment of this Court in the case of **Satpal Jindal and another vs. State of Punjab and others** reported as **2013 (1) S.C.T. 695**. In particular, my attention was drawn to paragraphs 11 and 15 of this judgment, which are reproduced as under :-

“11. The short question that would require examination in the present writ petition is as to whether it was open for the respondent-department to have deviated from the general order as contained in the circular dated 8.10.2012 issued by the Finance Department, State of Punjab ?

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15. *A clear case of violation of Articles 14 and 16 of the Constitution of India is also made out. The circular dated 8.10.2012 (Annexure P-3) has been issued by the Finance Department, State of Punjab in the light of the Amended Rule 3.26 of the Punjab Civil Service Rules, Vol. I, Part I. This order stands circulated to all the departments in the State of Punjab, Registrar, Punjab & Haryana High Court, Commissioners of Divisions, all the District & Sessions Judges and all the Deputy Commissioners of the Government of Punjab and is on the subject of the Governor of Punjab having granted an approval of extension of one year in the services of the Punjab Government Groups A, B, C and D employees. Such circular mandates the grant of extension to such employees who submit their options for grant of the benefit of extension. The*

circular dated 8.10.2012 would necessarily have to be construed as a general order. The fact that a large number of employees have been granted the benefit of extension of service for a period of one year in the light of the circular dated 8.10.2012 stands admitted. It would not be open for the Department of Food, Civil Supplies & Consumer Affairs, State of Punjab to charter its own course in such matter. The action of the respondent-department is clearly discriminatory and smacks of arbitrariness.”

So far as **C. W. P. No. 23764 of 2013** is concerned, virtually, the same arguments, as referred to above, were raised. In addition, it was submitted that in this case, a Resolution had been passed by the respondent Council in an earlier point of time, in the case of the petitioner to grant him extension and once that had been done, then, according to the learned counsel for the petitioner, it would amount to admission on the part of the respondent Council with regard to applicability of the instructions dated 27.02.2013 upon the respondent Council.

Countering the above submissions, learned counsel appearing

on behalf of respondent Council submitted that the respondent Council was an autonomous body, and therefore, it was up to the Council whether or not to adopt the instructions issued by the State of Punjab dated 27.02.2013. It was further submitted that due to the unrebutted poor fiscal status of the respondent Council, it was not in a position to grant extension of service to its employees. It was submitted that so far as petitioner in **C. W. P. No. 23764 of 2013** was concerned, he was a Driver and apart from driving the only car which the Municipal Council had, he was also driving the Fire Brigade, and therefore, initially a Resolution was passed favouring extension of service in his case, but later, on re-considering the entire issue, keeping in mind the poor fiscal status of the respondent Council, as also to apply the same rules to all the employees and to avoid discrimination, the matter with regard to extension of service was re-considered and it was decided not to grant any extension of service to him. It has still further been submitted that no employee of the respondent Council has been granted extension and therefore, the plea of discrimination at the hands of the petitioner is misplaced. It was brought to my notice that so far as Dalwinder Singh was concerned, he was employee of the provincialized cadre, and therefore, in his case, the State of Punjab had granted extension in service. It was submitted that no employee, like the petitioners, belonging to the non-provincialized cadre of the respondent Council, had been granted any extension.

Before I proceed further, it would be useful to refer to salient features of the instructions dated 27.02.2013, which are as under :-

“Subject: *Extension of one year in service of the officers/officials of the Public Sector Undertakings, Autonomous bodies & Co-operative Institutions.*

Refer to the subject mentioned above.

2. *The Government of Punjab, Department of Finance (Finance Personnel- 2 Branch) vide its notification No. 22/2/2012-3FP2/469, dated 8.10.2012 made amendment in Rule 3.26 of Punjab Services Rules Volume-I, Part-I according to which if it is necessary or expedient in public interest, a service of a Government employee or a class of Government employees may be extended beyond the date of superannuation for the period not exceeding two years after getting an option from the concerned Government employees or the Government employees as the case may be. After this amendment, the State*

Government vide their letter No. 22/2/2012-3FP2/475, dated 8.10.2012 granted one year extension in service to all those employees who were retiring on or after 31.10.2012. This extension was granted to all the employees of the State Government irrespective of their service record. This extension has been granted subject to the condition that the employees shall give their option in writing to the competent authority so as to be entitled that they withdraw emoluments equal to the Last Pay drawn at the time of their superannuation, according to Rule 3.26(b) of Punjab Civil Services Rules Volume-I, Part-I and shall draw all allowances given by Government from time to time.

3. There after the Department of Finance (Finance Personnel-2 Branch) vide their letter No. 22/2/2012-3FP2/607, dated 26.11.2012, clarified to all the departments that this benefit may not be given to the

employees of those departments in which projects/schemes are going to be closed or likely to be closed in near future and in those departments where services cadre has been declared as diminishing cadre, meaning voluntary/resignation/death of the employees or due to any other reasons, as a result of the abolition of posts cadre is diminishing, this benefit of extension of one year service may not be given to officers/officials appointed on such post.

4. Now the Department of Finance has received cases from various Board/Corporations seeking clarification/guidelines in this regard and also sought permission to grant extension of one year service to the employees in their respective Boards/Corporations. Therefore, accordingly following decision has been taken that :-

(a) This decision shall be applicable in those Boards/Corporations who have

made provisions in their byelaws/service rules to adopt Punjab Civil Services Rules or those Boards/Corporations in which the age of retirement is at par with the employees of the State Government.

(b) The Boards/Corporations can extend one year service of their employees after seeking the approval of their respective administrative departments.

(c) The Boards/Corporations before granting one year extension in service of their employees shall also keep in view the following points :-

(i) That the extension of one year service shall be applicable to all the employees working in the respective Boards/ Corporations as has been done in respect of all State Government employees, no pick and choose policy shall be adopted.

(ii) *No further extension shall be granted to the employees working in the Boards/Corporations where cadre of specific categories has been declared as diminishing cadre or where there is surplus staff in any category.*

(iii) *The extension of one year service shall not be granted in case where the financial position of those Boards/Corporations is effected by granting one year extension in service.*

(iv) *The extension of one year service shall not be granted to the employees of those institutions who receive grant-in-aid from State of Punjab.*

6. *These instructions shall be applicable only to those officers/officials whose date of one year extension falls on or after the date of issue of these instructions.*

7. *These instructions are being issued with the approval of Hon'ble Chief*

Minister of Punjab. [Emphasis supplied by me].”

A perusal of the above quoted instructions clearly provide that the above instructions are applicable to those Boards/Corporations, who have made provisions in their bye-laws and service rules to adopt Punjab Civil Services Rules or those Boards/Corporations, in which the age of retirement is at par with the State Government. It further provides that the extension of one year service shall not be granted in case where financial position of those Boards/Corporations is effected by granting one year extension in service, the extension, if to be granted, has to be in respect of all employees and no pick and choose policy is to be adopted and that the concerned Institution is not receiving any grant-in-aid from the Government.

There can be no dispute with the proposition that the respondent Council is an autonomous local Authority governed by its own Resolutions and having its own funds and powers to make its own decisions. In fact, autonomy to the local Bodies like the respondent Council is required to be given as per the provisions of Article 243-W of the Constitution of India. Article 243-W is reproduced below for ready reference :-

“243W. Powers, authority and responsibilities of Municipalities, etc. -

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow -

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters

listed in the Twelfth Schedule.”

Acknowledging the above autonomy of respondent Council, the Government of Punjab, through letter dated 27.08.2013, had left the final decision with regard to the instructions of Government dated 27.02.2013 with the respondent Council. The letter dated 27.08.2013 is reproduced below :-

“To

*Executive Officer,
Municipal Council, Sirhind.*

*Remind Letter No.:AB-DSS-
(Establishment)-13/28384*

Date : 27.08.2013.

*Subject :- Regarding the resolution
no.665 dated 08.07.2013*

*On the above subject, in regard
to the reference of your office letter no.
1768 dated 12.08.2013*

*2. On the above subject, orders
are given by the Hon'ble Directorate, Local
Government after considering the proposed
send in your reference letter regard to
resolution no. 665 dated 08.07.2013 that
action should be taken as per the direction*

*issued by government dated 27.02.2013 and
letter no. Accountant-6-Ukwal-DSS-2013/
11397-589 dated 28.03.2013 of the
department.”*

In view of the above, the respondent council through Resolution dated 13.03.2011, on account of fiscal constraints, decided not to grant extensions to its employees. Fiscal constraints was one of the exceptions carved out in the instructions dated 27.02.2013 itself. An autonomous body like the respondent Council, especially after having been permitted to do so through Government, vide letter dated 27.08.2013, could have taken a decision not to grant extensions to its employees after superannuation on account of fiscal constraints. It may be noticed that the plea of fiscal constraints specifically raised by the respondent Council has not been rebutted by the petitioner, neither through a replication nor through any submissions raised at the Bar.

The issue of discrimination raised on behalf of the petitioners for having granted extension of service in the case of Dalwinder Singh needs to be considered only to be rejected. It has been brought to my notice that Dalwinder Singh was an employee of the provincialized cadre, and therefore, extension in his case was by the Government of Punjab. Admittedly, the petitioners do not belong to the provincialized cadre and thus, cannot possibly raise a finger of discrimination in this regard. No case

of extension of service, in the case of any employee belonging to the non-provincialized cadre, to which the petitioners belong, has been brought to my notice. Thus, the issue of discrimination, so sought to be raised by the petitioners, fails.

So far as the petitioner in C. W. P. No. 23764 of 2013 is concerned, it is true that at one point of time, he being the only Driver driving the car of the respondent Council and the Fire Brigade, was sought to be granted extension, but later, before any final decision could be taken to grant him extension, the matter was re-considered and to avoid any allegation of discrimination from being raised, as also on account of fiscal constraint, no extension in service was granted in his favour.

As per the settled law, no legal right vests in an employee to seek, as a matter of right, extension of service beyond the age of superannuation. The extension in service beyond the age of superannuation is a discretion, which vests in the employer, who is to exercise this discretion keeping in view the public interest. Extension in service is in conferment of benefit of privilege on the employee. In this regard, the following observations made by the Apex Court in the case of State Bank of Bikaner & Jaipur v. Jag Mohan Lal reported as 1989 Supp (1) SCC 221 can be usefully referred to :-

“9. It seems to us that the High Court has misconstrued the legal right

claimed by the respondent. The right to get extension of service beyond the age of superannuation has received consideration of this Court in several cases. In State of Assam v. Basanta Kumar Das. after reviewing almost all the earlier decisions [Kailash Chandra v. Union of India; B.N. Mishra v. State of U. P and State of Assam v. Premadhar], this Court said: (SCR p. 165 : SCC p. 467, paras 16 and 18)

“A government servant has no right to continue in service beyond the age of superannuation and if he is retained beyond that age it is only in exercise of the discretion of the Government....

The fact that certain persons were found fit to be continued in service does not mean that others who were not so found fit had been discriminated against. Otherwise the whole idea of continuing only efficient people in service even after they had completed 55 years becomes only

meaningless.”

10. What do we have here in this case to distinguish those principles or not to apply those principles? In our opinion, there is none. In the scheme provided herein the respondent or any other officer of the Bank has a legitimate right to remain in service till he attains the age of superannuation. But beyond that age, he has no such right unless his service is extended by the Bank. The further rights of parties are regulated by the proviso to Regulation 19(1). It reads:

“Provided that the competent authority may, at its discretion, extend the period of service of an officer who has attained the age of 58 years or has completed thirty years’ service as the case may be, should such extension be deemed desirable in the interest of the Bank.”(emphasis supplied)

11. Look at the language of the proviso and the purpose underlying it. The

Bank may in its discretion extend the service of any officer. On what ground? For what purpose? That has been also made clear in the proviso itself. It states "should such extension be deemed desirable in the interest of the Bank". The sole purpose of giving extension of service is, therefore, to promote the interest of the Bank and not to confer any benefit on the retiring officers. Incidentally the extension may benefit retired officials. But it is incorrect to state that it is a conferment of benefit or privilege on officers. The officers upon attaining the age of superannuation or putting the required number of years of service do not earn that benefit or privilege. The High Court has completely misunderstood the nature of right and purpose of the proviso. The proviso preserves discretion to the Bank. It is a discretion available with every employer, every management, State or otherwise. If the Bank considers that the

service of an officer is desirable in the interest of the Bank, it may allow him to continue in service beyond the age of superannuation. If the Bank considers that the service of an officer is not required beyond superannuation, it is an end of the matter. It is no reflection on the officer. It carries no stigma. [Emphasis supplied by me].”

To the same effect, are the observations made by the Apex Court in the case of **D. C. Aggarwal vs. State Bank of India** reported as **(2006) 5 SCC 153**, wherein it has been held as under :-

“29. *The argument of the learned counsel for the appellant proceeded on a misapprehension of the manner in which extension of service is to be granted. In State Bank of Bikaner and Jaipur v. Jag Mohan Lal (hereinafter “Jag Mohan Lal”) this Court had occasion to point out that a rule under which extension of service can be granted beyond the normal age of retirement, does not invest a legal right in*

the employee to be granted such an extension. The very same regulation as in this case was interpreted in Jag Mohan Lal and it was pointed out therein that the sole purpose of giving extension of service is to promote the interest of the Bank and not to confer any benefit or favour on retiring officers.⁵ It was pointed out that it was not a conferment of a benefit or privilege on officers. Merely because the officer has put in the requisite number of years of service, that does not earn him/her that benefit or privilege. This Court observed: (SCC p. 225, para 12)

“12. The Bank, however, is required to consider the case of individual officers with due regard to (i) continued utility; (ii) good health; and (iii) integrity beyond reproach of the officer. If the officer lacks one or the other, the Bank is not bound to give him extension of service. In this case, the Bank has shown to the High Court that the case of

the respondent was considered and he did not fit in the said guidelines. The High Court does not sit in an appeal against that decision. The High Court under Article 226 cannot review that decision."

30. If the bank considers that the continuance of services of an officer is desirable in the interest of the bank, it may allow him to continue beyond the age of superannuation. If the bank considers that the service of the officer is not required beyond the age of superannuation, that is the end of the matter. Further, non-extension of service is no reflection on the calibre of the officer and it carries no stigma.

31. It appears to us that these principles were not kept in mind by the learned Single Judge when he interfered with the discretion of the respondent Bank not to grant an extension to the appellant. The Division Bench has, however, rightly applied the legal principle stated in Jag

Mohan Lal and found that there was no such right vested in the appellant to demand an extension beyond the age of fifty-eight years. Further, in the facts and circumstances of the case, the Division Bench found that the extension had been refused for good reasons and was not liable to be interfered within its writ jurisdiction. We agree with this reasoning of the High Court. [Emphasis supplied by me].”

The above proposition of law, as reproduced above, was reiterated by the Apex Court in a later decision in the case of **P. Venugopal v. Union of India** reported as **(2008) 5 SCC 1**, as under :-

“8. *It is true that in establishments like AIIMS, there is an age of superannuation governing the length of service of its officers and employees. Such age of superannuation may be suitably altered by way of reducing the age so as to affect even the serving employees under appropriate circumstances and no exception can be taken to such course of action.*

Similarly, under the service rules, there may be provision for extension of service after the attainment of the age of superannuation and it is well settled that in the event of refusal by an employer to grant an extension, the employee cannot justifiably claim to be deprived of any right or privilege. The view taken is that the employer has a discretion to grant or not to grant such extension having regard to the interest of the employer or the establishment. This view was expressed by this Court in State Bank of Bikaner and Jaipur v. Jag Mohan Lal. In this case, at AIR para 12, this Court observed as follows: (SCC p. 226, para 13)

“13. ... The Bank has no obligation to extend the services of all officers even if they are found suitable in every respect. The interest of the Bank is the primary consideration for giving extension of service. With due regard to exigencies of

service, the Bank in one year may give extension to all suitable retiring officers. In another year, it may give extension to some and not to all. In a subsequent year, it may not give extension to any one of the officers. The Bank may have a lot of fresh recruits in one year. The Bank may not need the services of all retired persons in another year. The Bank may have lesser workload in a succeeding year. The retiring persons cannot in any year demand 'extension to all or none'. If we concede that right to retiring persons, then the very purpose of giving extension in the interest of the Bank would be defeated. We are, therefore, of opinion that there is no scope for complaining of arbitrariness in the matter of giving extension of service to retiring persons."

At this stage, I may refer to a Division Bench judgment of this Court, wherein in the case of **Lal Chand Goyal vs. Punjab State Agricultural Marketing Board and others - C. W. P. No. 11994 of 2013**, decided on 10.02.2014. In this case, the petitioners therein, who were

employees of the Punjab State Agricultural Marketing Board, had approached this Court seeking extension of their services beyond the age of superannuation, which relief had been declined by the employer therein. After considering the provisions of Rule 3.26 of the Punjab Civil Services Rules Volume I Part I, as also the instructions issued by the State of Punjab dated 08.10.2012 and 27.02.2013, the Division Bench dismissed the writ petitions after holding that no direction in the nature of mandamus is liable to be issued to the respondent Board therein to grant benefit of extension of service in the case of the petitioners beyond the age of superannuation. The relevant observations made by the Division Bench are as under :-

"We have heard counsel for the parties. The primary contention of counsel for the petitioner is as there is no provision in the Rules of 1988 dealing with the age of superannuation, in terms of Rule 13 of the Rules, the Rules as applicable to the employees of the Government of Punjab from time to time are to govern the members of the respondent-Board. The contention is that as the amended Rule 3.26 of the CSR provides for extension in service to Punjab Government employees beyond the age of

superannuation, similar extension in service is liable to be granted to employees of the respondent-Board.

This argument completely misses out the import of the proviso to Rule 3.26 (a) of the CSR. It is not the case where the age of superannuation has been increased from 58 years to 60 years by virtue of the amendment. Through the proviso an enabling provision has been made that in case the State Government is of the opinion that it is necessary or expedient in public interest, then the service of a Government employee or class of Government employee may be extended beyond the date of retirement not exceeding two years. The underlined words in the said proviso clearly indicate that extension in service beyond the age of superannuation is not a matter of course. Any grant of extension has to be preceded by formation of an opinion by the government that it is

necessary or expedient in public interest to grant the extension. Vide instructions dated 08.10.2012, the Governor of Punjab in view of the amendments in Clauses (a) and (b) of Rule 3.26 of CSR Volume I Part I as amended, approved the extension of one year in service to Punjab Government employees. Evidently, this was the conscious decision of the Government in consonance with the provisions aforesaid. If the Government had not taken this decision dated 08.10.2012, no Punjab Government employee could claim any right that he or she should be granted extension in service of one year. The Government employees got the benefit of extension in service because of the conscious decision of the Government reflected in the instructions dated 08.10.2012.

As these instructions were not made applicable to the employees of Boards and Corporations, they agitated before the

Court that guidelines for extension in service qua employees of Boards and Corporations be also formulated. In response, the Government has formulated guidelines/instructions dated 27.02.2013, which would be applicable to those Boards and Corporations, who have made provisions in their service rules to adopt Punjab Civil Service Rules. In terms of these these instructions, the Boards and Corporations are required to keep in view certain matters spelt out in these instructions which are are rational, reasonable and in keeping with the interest of the concerned Boards and Corporations.

Counsel for the petitioner has placed reliance on a judgment of Hon'ble the Supreme Court in the case of State of Uttar Pradesh v. Dayanand Chakrawarty and others 2013 (4) SCT 145. This judgment is not applicable to the facts of the present case. In that case, the age of

superannuation of State Government employees had been increased from 58 years to 60 years. Regulations 31 of the U.P. Jal Nigam provided that for matters for which there is no provision in the regulations the pay, allowance, pension, leave and other conditions of service of the members of service shall be regulated by rules, regulations or orders applicable to the Government employees serving in connection with the affairs of the State. It was in this context that the Hon'ble Supreme Court had observed that as Regulations had been framed by Nigam specifically enumerating in Regulation 31, that the rules governing service condition of Government employees shall apply to the employees of the Nigam that it was not possible for the Nigam to take any administrative decision directing that enhanced age of superannuation of 60 years applicable to the Government employees shall not apply to

the employees of the Nigam. It was stated that only option for the Nigam was to make suitable amendment in Regulation 31 providing thereunder that the age of superannuation of its employees would be 58 years in case it intended that 60 years, which was enhanced age of superannuation of State Government employee should not be made applicable to the employees of the Nigam. It was also held that it is not possible for the State Government to give a direction that the enhanced age of 60 years would not be applicable to the employees of the Nigam.

In the present case, the age of superannuation has not been increased, vide amendment of Rule 3.26 of CSR, to 60 years. Only a proviso has been added that in case the Government deems it necessary or expedient in public interest it may grant extension in service for a period not exceeding two years beyond the date of

superannuation. The respondent-Board has taken a conscious decision keeping in view the financial implication and totality of circumstances not to grant extension in one year in service to its employees. In the decision dated 26.03.2013 it has been stated thus:

“.....After examining it has been found that during the last four years the expenditure on the salaries of the employees of all the Market Committees has increased continuously. Similarly, the expenditure related to the salaries of the employees of the Punjab Mandi Board for the year 2008-09 was Rs. 48,32,30,938/- which increased to Rs. 87,20,70,836/- for the year of 2011-12. Accordingly, the expenditure related to the salaries of the employees of the Market Committees for the year 2008-09 was Rs. 10,538 lacs which increased to Rs. 18,883 lacs for the year 2011-12. There is full attempt to stop the unproductive expenses by the Punjab Mandi Board, so that there is availability of funds to be used for

development of roads and Mandis. Keeping in view the above reasons, the extension for the period of one year cannot be granted to your service, in view of the interest of the Board. Hence the same is declined.”

Plainly no fault can be found with the said decision. The question of grant of extension in service beyond the age of superannuation has been considered by Hon'ble the Supreme Court in various cases. The common thread in all these decisions is that there is no legal right vested in an employee to seek extension in service beyond the age of superannuation. It is a discretion available to every employer, every management and State to exercise discretion keeping in view public interest. It has also been stated that the extension in service is not conferment of benefit or privilege on the Officer. [Emphasis supplied by me].”

The above observations by the Division Bench rendered while considering the instructions dated 27.02.2013 virtually seal the fate of the

petitioners in the present writ petitions.

Before parting with the judgment, the petitioners' reliance on the case of **Satpal Jindal** needs to be dealt with. Having gone through the judgment in that case, I find that the petitioners in that case were employees of Department of Food, Civil Supplies and Consumer Affairs, State of Punjab, which is a Department of the Government and once the instructions dated 08.10.2012 had been found to be applicable on one Department of the Government of Punjab, then they were ordered to apply on another Department of the State. In the case in hand, the petitioners are not employees of a Department of the State of Punjab, but are employed by the respondent Council, which governs itself through Resolutions passed by its Members and it is not a Department of the State. The judgment is thus clearly distinguishable from the facts of the case in hand.

Resultantly, both the writ petitions being **C. W. P. No. 17038 of 2013** and **C. W. P. No. 23764 of 2013** are ordered to be dismissed with no order as to costs.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 31.03.2015
monika