

*Before Harsimran Singh Sethi, J.*

**JAGDISH SINGH**—*Petitioner*

*versus*

**STATE OF PUNJAB AND OTHERS**—*Respondents*

**CWP No.8117 of 2019**

April 10, 2019

*Constitution of India, 1950—Art.226—Writ Petition—Extension in service—Petitioner working on post of Work Mistry which is already surplus—Held, grant of extension cannot be claimed as a matter of right as the same is to be regulated in terms of provisions and conditions—Further, instructions of Government in year 2012 clearly shows that department where there is no work, no extension should be granted otherwise grant of extension will be meaning paying employee without taking any work—Government rightly declined to grant extension to employees of diminishing cadre or where employees are working apart from posts which are already surplus.*

*Held that* it is a settled principle of law that the grant of extension cannot be claimed as a matter of right as the same is to be regulated in terms of the provisions and conditions laid therein. After the issuance of the instructions dated 08.10.2012, by which the Government had decided to grant two yearly extension for a period of one year each, the Government of Punjab also issued instructions on 26.11.2012 wherein it was made clear that the department where there is no work, no extension shall be granted.

(Para 6)

*Further held that* a bare perusal of the said instructions would show that department where there is no work, no extension should be granted otherwise the grant of extension will be meaning paying the employee without taking any work and therefore, the Government had rightly declined to grant extension to the employees of the diminishing cadre or where the employees are working apart from posts which are already surplus.

(Para 8)

*Further held that* the post of Work Mistry, on which the petitioner was working is already surplus and therefore, the declining of the request of the petitioner by the respondents vide impugned order

dated 29.01.2019 is perfectly valid and is in consonance with the instructions issued by the Government of Punjab reproduced above.

(Para 9)

M.K. Dogra, Advocate  
*for the petitioner.*

### **HARSIMRAN SINGH SETHI, J. ORAL**

(1) In the present writ petition, the grievance which is being raised by the petitioner is that his request for the grant of extension in service in pursuance to the Government notification dated 08.10.2012 has been declined vide order dated 29.01.2019 (Annexure P-4).

(2) Learned counsel for the petitioner contends that vide notification dated 08.10.2012, the Government of Punjab had amended the provisions of the Punjab Civil Services Rules and had decided to grant two extensions of one year each to the employees, who were attaining the age of superannuation after reaching 58 years of age.

(3) Learned counsel for the petitioner states that the case of the petitioner is squarely covered by the said instructions and therefore, as the petitioner was entitled for extension, he, vide letter dated 28.12.2018, filed a request with the competent authority to the effect that as he is to retire on 31.03.2019 and therefore, as per the amended provisions of the Punjab Civil Services Rules, he is entitled for the grant of extension and therefore, the same should be granted to him. The said request of the petitioner was declined by the competent authority on 29.01.2019 stating that the post of Work Mistry on which the petitioner was working, is already declared surplus and therefore, the petitioner cannot be granted the said extension in view of the notification of the Government of Punjab dated 26.11.2012. The relevant order passed declining the claim of the petitioner is as under:-

“ From

Chief Engineer/RSDC,  
Water resource Department, Punjab,  
Shahpurkandi Township.

To

Superintending Engineer,  
RSD- Civil Circle,  
Shahpurkandi Township.

Subject: Request letter for extension of one year in service of employees of Punjab Government- Sh. Jagdish Singh, Work Mistry son of Sh. Rattan Singh.

Ref: your office letter No.171-71/5E.S dated 15.01.2019. Vide letter under reference regarding the above subject, case of Sh. Jagdish Singh, Work Mistry for extension of service for one year as per Punjab Government, Finance Department (Finance Personnel-2 Branch), Chandigarh's memo No.22/2/2012-3FP.2/607 dated 26.11.2012 is returned in original being the post of Work Mistry declared surplus at Ranjit Sagar Dam and his case rejected.

Encl/as above

Sd/-

Superintending Engineer/headquarters,  
For: Chief Engineer/RSDC, Water resource  
Department,Punjab, Shahpurkandi Township.”

(4) Learned counsel for the petitioner argues that said declining of the request is contrary to the law and therefore, the said order be set aside and direction be issued to the respondents that petitioner be granted extension as being claimed by him for a period of one year after 31.03.2019.

(5) I have heard the learned counsel for the petitioner.

(6) It is a settled principle of law that the grant of extension cannot be claimed as a matter of right as the same is to be regulated in terms of the provisions and conditions laid therein. After the issuance of the instructions dated 08.10.2012, by which the Government had decided to grant two yearly extension for a period of one year each, the Government of Punjab also issued instructions on 26.11.2012 wherein it was made clear that the department where there is no work, no extension shall be granted. The relevant portion of the said instructions dated 26.11.2012 are as under:-

“ To

All Head of Departments,  
Registrar, Punjab and Haryana High Court,  
Commissioner of Divisions,  
All Distt. And Sessions Judges and,

All Deputy Commissioners,  
in the State of Punjab.

Subject: Regarding one year Extension in Service to employees of Govt. of Punjab.

I am directed to invite a reference to Finance Department instruction No.22/2/2012-3 FP 2/475 dated 8 October 2012, vide which amendment in the Punjab C.S.R Vol I Part I Rule 3.26 Clause (a), Clause (b) and clause (c) was made for enabling provision to grant one year extension in service to Punjab Govt. employees and convey as under:-

a) The benefit in which no project/work is undergoing and employees are having no work/are ideal, those shall not be granted one year extension.

b) Extension shall not be granted to the Department in which service cadre is declared diminishing abolishing of vacancies due to retirement /voluntary retirement /resignation /death or any other reason

Necessary amendment in this regard shall be made later on in the Rules.

Yours Sincerely

Sd/-

(Mohinder Singh Prashar)  
Under Secretary Finance.”

(7) These instructions are not under challenge in present writ petition

(8) A bare perusal of the said instructions would show that department where there is no work, no extension should be granted otherwise the grant of extension will be meaning paying the employee without taking any work and therefore, the Government had rightly declined to grant extension to the employees of the diminishing cadre or where the employees are working apart from posts which are already surplus.

(9) In the present case, it is undisputed that the post of Work Mistry, on which the petitioner was working is already surplus and therefore, the declining of the request of the petitioner by the

respondents vide impugned order dated 29.01.2019 is perfectly valid and is in consonance with the instructions issued by the Government of Punjab reproduced above.

(10) In view of the above, no fault can be found in the impugned order hence the present writ petition is dismissed.

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*Ritambhra Rishi*