2025:PHHC:167035

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23237-2019(O&M)

MANMOHAN SINGH

...PETITIONERS

VERSUS

UNION OF INDIA AND ORS.

....RESPONDENTS

1.	The date when the judgment is reserved	16.10.2025
2.	The date when the judgment is pronounced	02.12.2025
3.	The date when the judgment is uploaded	
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. B.S. Patwalia, Advocate with
for the petitioner.

Mr. B.S Kanwar, Sr. Panel Counsel with
Mr. Chamandeep, Advocate for the respondent-UOI

Mr. I.S. Sindhu, Advocate for the respondents No. 2 to 4

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SANDEEP MOUDGIL, J

Prayer

1. The petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India seeking a direction to the respondents to allow him to continue in service as Senior Librarian at the National Institute of Technical Teachers Training and Research (NITTTR) beyond the age of 62 years, up to 65 years, contending that the post of Senior Librarian is a faculty

position and therefore, the provisions regarding superannuation applicable to faculty members should apply to him.

The Conspectus Of Facts

2. The petitioner served as Chief Librarian/Senior Librarian in the respondent institute has approached this Court seeking extension of his service beyond the age of 62 years up to 65 years. Earlier, the petitioner had filed C.M. No. 13185-CWP-2019, which was withdrawn with liberty to file an appropriate application seeking interim relief. Subsequently, he filed C.M. No. 13845-CWP-2019 seeking a direction to allow him to continue in service beyond 62 years, which was dismissed in view of a government circular dated 14.01.1999, granting him liberty to challenge the circular.

3. The petitioner did not avail the liberty granted, and approached this Court only shortly before attaining the age of 62 years. The respondents contend that the age of superannuation for the post of Librarian was fixed at 62 years as per Ministry of Human Resource Development orders, and the petitioner's post was categorized as non-teaching cadre, though enjoying privileges and facilities similar to teaching faculty. The respondents further submit that the extension of superannuation age from 62 to 65 years was provided only for teaching faculty due to shortage of such personnel, and there was no policy or order extending similar benefit to librarians.

4. The petitioner claims entitlement to continue in service until 65 years based on parity with teaching faculty, whereas the respondents maintain that the petitioner's rights have not been infringed, and the age of superannuation is a policy matter governed by rules applicable to the respective cadre.

5. Aggrieved by the same, the petitioner filed the present writ petition seeking quashing of Clause 8(f)(ii) of letter dated 31.12.2008 of Annexure P-8 and extension of service alleging denial of his rights.

Contentions

On behalf of Petitioners

6. The learned counsel on behalf of the petitioners submitted that the petitioner, who has been serving in the Institute as Chief Librarian/Senior Librarian, has a legitimate expectation to continue in service beyond the age of 62 years up to 65 years, in line with the teaching faculty of the Institute. It was argued that although the petitioner is a non-teaching employee, he has been granted certain privileges and facilities at par with teaching faculty, including pay scales and other service benefits, and therefore, the restriction on age of superannuation under Clause 8(f)(ii) of letter dated 31.12.2008 of Annexure P-8 is arbitrary, unreasonable, and discriminatory.

7. Learned counsel emphasized that the policy for extension of superannuation for teaching faculty has been expressly linked to the scarcity of qualified personnel for teaching which seems like a frivolous and in the absence of any rational distinction, similar treatment should be extended to the petitioner and cannot be illegally denied.

8. It was further submitted that the petitioner has rendered long and continuous service in the Institute and has acquired rights under service regulations, including the benefit of age extension from 60 to 62 years pursuant to the Office Memorandum dated 14.01.1999 (Annexure P-7) and denying the benefit of extension to 65 years to the petitioner, despite the petitioner's continued service on no material distinction or nexus even though internal resolutions of the Board of Governors extend privileges and facilities to the non-teaching faculty at par with teaching faculty, constitutes a violation

of principles of equality.

9. Learned counsel also highlighted that the relief sought is not in the nature of circumventing policy but in ensuring fair and equitable treatment consistent with similar positions in the Institute.

10. Lastly it was submitted that there exists no policy justification for denying extension of service to the petitioner, particularly when he has been functioning effectively and performing duties equivalent in responsibility and importance to those of teaching faculty.

<u>On behalf of Respondents</u>

11. Learned counsel on behalf of the respondents submitted that the petitioner's claim for extension of service beyond the age of 62 years is not maintainable in law as no legal or vested right exists in his favor to continue in service up to 65 years. It was urged that the age of superannuation is a matter of policy framed by the Ministry of Human Resource Development (MHRD) in consultation with the Board of Governors of the Institute, and such policy decisions are binding on all employees of the Institute, including the petitioner.

12. It was contended that the relevant Office Memorandum dated 14.01.1999 (Annexure P-7) specifically fixed the age of superannuation for the category of Chief Librarian and Senior Librarian at 62 years, and this age has been consistently applied.

13. It was further submitted that the petitioner is not a teaching faculty member but belongs to a non-teaching cadre, and the policy regarding extension of age of superannuation up to 65 years applies only to teaching faculty in view of scarcity of qualified personnel. Learned counsel emphasized that the privileges and facilities granted to the petitioner at par with teaching

faculty relate solely to pay scale and other benefits, and do not include the right to extension of age of superannuation. Therefore, there exists no equivalence between teaching faculty and the petitioner with regard to the benefit of continued service beyond 62 years.

14. Counsel for the respondents also argued that the petitioner's claim is barred by delay and laches, as the relevant clause in Annexure P-8 has been in force since 31.12.2008, and the petitioner approached the Court only in August 2019, just prior to attaining the age of superannuation. The respondents submitted that the petitioner had adequate opportunity to challenge the policy within a reasonable period, but failed to do so, thereby condoning any delay or waiver of remedy cannot be claimed at this stage.

15. It was further contended that the petitioner voluntarily availed the benefit of extension of age of superannuation from 60 to 62 years pursuant to the Office Memorandum dated 14.01.1999, and had provided an undertaking while availing the benefit of 6th and 7th Central Pay Commission revisions, thereby acknowledging the existing terms and conditions of service. The respondents submitted that any attempt to extend the superannuation age beyond 62 years for librarians is contrary to the policy of the Government of India and is therefore impermissible in law.

16. Heard counsel for both parties.

Analysis

17. Upon thoughtful consideration of the rival contentions and the material placed on record, this Court is of the considered view that the core grievance raised is that the petitioner, appointed decades prior to the issuance of the letter dated 31.12.2008 (Annexure P-8), cannot be subjected to the adverse consequences of the said letter, particularly Clause 8(f)(ii) of letter dated 31.12.2008, which restricts the age of superannuation of Librarians to 62

years by creating a distinction between the teaching and non teaching faculty. The legal question that arises is whether a subsequent policy, altering service conditions by creating a later distinction between faculty positions, can be retrospectively applied to an employee whose terms of service were already crystallized by granting him parity in all benefits, privileges and facilities except vacation to the teaching faculty *vide* decision of the Board of Governors meeting dated 21.10.1988 (Annexure P-6).

18. From 1980 onwards, every document, restructuring exercise, and internal approval shows that the post of Senior Librarian in the respondent Institute was conceived, sanctioned, and treated as a faculty post. The 50th Meeting of the Board of Governors in 1988 established this factual and administrative position by advancing the benefits, privileges and facilities of teaching faculty to non-teaching faculty.

19. Moreover, it was submitted that in the respondent institute- National Institute of Technical Teachers Training and Research (in short as NITTTR), the petitioner was not merely a Librarian in a conventional sense. He belonged to an institution that is not a standard university or department, but a unique training institute, established under the Ministry to train engineering and polytechnic teachers. In this institute, the roles of Chief Librarian and Senior Librarian were not routine posts but were specially designed as part of the teaching and training ecosystem, training of future teachers, and teaching subjects including Library and Information Science. This distinguishes NITTTR from typical government institutions and pursuant to which, its library posts were placed firmly within the teaching paradigm blurring the distinction between teaching and non-teaching faculty.

20. It is also significant to note that this factual position was not incidental, but consistently recognized by the respondent Institute itself, culminating in the issuance of Office Order dated 18.02.2000 (Annexure P-7), where the superannuation age of the petitioner was expressly raised from 60 to 62 years at par with teaching faculty, in line with the prevailing policy of the Central Government applicable to teachers. When a competent authority, acting on binding policy instructions, has already treated the petitioner as part of the teaching cadre for purposes of superannuation, such a decision creates a legitimate expectation in favour of the petitioner that he will continue to receive treatment identical to teaching faculty in all future revisions concerning age of retirement. 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."*

21. This 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. Nor can the State approbate and reprobate

extending the petitioner's age once on the ground that he is faculty, and denying him the subsequent extension by declaring him non-faculty. Law does not permit such oscillations causing disadvantage to the employee who has spent years of his life in service and placed trust in the organisation.

22. Also, this Court is persuaded by the submission that the letter dated 31.12.2008 (Annexure P-8) does not indicate that it overrides or annuls earlier decisions specifically taken in respect of NITTTR Librarians, nor does it contain any express direction that it should operate retrospectively. Policy must operate prospectively unless the text insists otherwise and the letter dated 31.12.2008 contains no such insistence and cannot be automatically assumed, especially in specialized institutes like those of NITTTR, which have been shaped by continuous oversight of Board of Governor resolutions dating back to 1980. To use the letter dated 31.12.2008 as an axe to sever longstanding rights is neither legally sound nor morally defensible. It is trite law that a policy altering service conditions to the detriment of existing employees cannot be applied retrospectively unless expressly stated. Service benefits once extended cannot be withdrawn by implication or administrative reinterpretation, especially when the employee has served almost his entire career under the earlier regime. In **"*State of Gujarat v. Raman Lal Keshav Lal Soni, (1983) 2 SCC 33*",** the apex Court observed that:

> *"The law must satisfy the requirements of the Constitution today taking into account the accrued or acquired rights of the parties today. The law cannot say, 20 years ago the parties had no rights, therefore, the requirements of the Constitution will be satisfied if the law is dated back by 20 years. We are concerned with today's rights not yesterday's. A legislature cannot legislate today with reference to a situation that obtained 20 years ago and ignore the march of events and the constitutional rights accrued in the course of the 20 years."*

Therefore, the benefits acquired under the existing rule cannot be taken away with retrospective effect as there is no power to make such a rule which affects or impairs vested rights.

23. In the present case, the petitioner was appointed in the year 1985 and for more than two decades continuously treated at parity with teaching faculty for all policy purposes. His superannuation age stood crystallized at 65 by virtue of the parity promised between teaching and non teaching faculty in privileges and facilities through the decisions of the Board of Governors. The letter dated 31.12.2008 (Annexure P-8), being a later general executive instruction, cannot retrospectively divest the petitioner of a benefit already attached to his cadre, more so when NITTTR itself repeatedly acknowledged his faculty status and continued extending him all corresponding privileges.

24. The Board of Governors' decision of 2014 further supports the petitioner's contention. The Board itself acknowledged that the posts of Senior Librarians at NITTTR had historically been treated as teaching posts and required formal de-linking from non-teaching cadre only for the purpose of bringing the rules in line with the unique nature of NITTTR. This affirmation in 2014 is a powerful indication that the petitioner's position as faculty was not an anomaly but an institutional recognition of the essential nature of the post.

25. The respondents' contention that the petitioner should have challenged the the letter dated 31.12.2008 (Annexure P-8) earlier is also misplaced. A challenge arises only when an adverse action is threatened or taken. The petitioner only reached the retirement age at 62 years in 2019 and prior to that the institute continued to treat him on par with teaching faculty in various respects. Therefore, the cause of action arose only when respondents sought to retire him on 30.09.2019 denying him the benefit of the extension of

the superannuation age to 65 years as granted to the teaching faculty. Delay cannot be used as a shield to justify retrospective application of an adverse policy.

26. Furthermore, the doctrine of promissory estoppel applies squarely to the facts. The petitioner structured his entire career based on repeated official assurances, conduct, and orders treating him at parity with teaching faculty. The respondents cannot now turn around at the final stage of service and say that he belongs to a different category altogether.

27. Thus, in the combined spirit of constitutional fairness and administrative consistency, this Court cannot uphold a retrospective deprivation of rights. The petitioner's right to be treated at parity with the teaching faculty, his right to the superannuation age of 65, and his legitimate expectations built over decades must be honoured and not undermined by the later letter dated 31.12.2008 that never purported to rewrite his past service.

Conclusion

28. In light of the aforesaid, this Court is satisfied that the letter dated 31.12.2008 (Annexure P-8) cannot be applied retrospectively to unsettle the petitioner's accrued rights or to alter his superannuation age. One must not forget that for 'be you ever so high, the law is above you.' The petitioner was rightly entitled to be treated as part of teaching faculty for the purpose of age of retirement, and once the faculty superannuation age stands at 65 years, the petitioner must be extended that benefit as well. The action of retiring the petitioner at 62 years is arbitrary, unsupported by law, contrary to earlier binding decisions, violative of legitimate expectation, and unsustainable in service jurisprudence.

The writ petition accordingly succeeds. The petitioner shall be deemed to have continued in service until attaining the age of 65 years, with all consequential benefits.

Pending application(s), if any shall be disposed off, accordingly.

(SANDEEP MOUDGIL)
JUDGE

02.12.2025
Meenu

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No