

**2025:HHC:39224****IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA****CWP No. 15499 of 2024**
Date of decision: 18.11.2025.

Prem Chand VermaPetitioner**Versus****State of Himachal Pradesh & another**
...Respondents

Coram:**The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.**
The Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge.*Whether approved for reporting?*¹ **Yes**

For the Petitioner: Petitioner in person.**For the Respondents:** Mr. Arsh Rattan, Deputy Advocate
General, for respondent No. 1.**Mr. Nitin Thakur, Advocate, for**
respondent No. 2.

G.S. Sandhawalia, Chief Justice (Oral)

The writ petitioner seeks grant of annual increment w.e.f. 01.11.2022 with all consequential benefits.

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

2. The State vide its communication addressed to the Registrar General, dated 29.03.2023 (Annexure R-2/B) has stood by its earlier communication dated 22.12.2022 (Annexure R-2/A) and has clarified that the Finance Department's instructions dated 23.06.2015, would cover the matter and that an employee during the period of extension in service beyond the superannuation date would not be entitled for the benefit of increment.

3. The petitioner, who appears in person, submits that he was granted extension in service in public interest, vide order dated 25.08.2022 (Annexure P-1) by the then Chief Justice, while exercising the powers under Article 229 of the Constitution of India, for a period of one year, since he was due to retire on 31.08.2022. The said order specified that the benefits of scale, pay, special pay and grade pay which were held by him at the time of superannuation, were also to be admissible with all consequential benefits.

4. It was in such circumstances argued that the stand as such of the State to fall back on the instructions dated 23.06.2015, would not be justified, wherein the communication had been addressed to the Principal Secretary (Finance) to the Government of Himachal Pradesh and all Administrative Secretaries to the State Government, wherein it was mentioned that increase in pay would not be admissible to a Government employee during the period of extension in service beyond the superannuation date and he would continue to draw the same pay which he was drawing at the time of superannuation and the pensionary benefits were also allowed on the basis of last pay drawn by a government employee.

5. Reliance has been placed upon the provisions of Chapter 22, Clause 22.2 of the Handbook on Personnel Matters, Vol. II, to draw distinction between extension in service and re-employment and that the Handbook itself provides that all the benefits have to be granted.

6. In this context, the specific averment has been made in Paragraph-8 of the writ petition. In the reply as such to the binding effect of the Handbook as such is only sought to be distinguished on the ground that there are instructions dated 23.06.2015.

7. The learned Counsel for the High Court and the State have also submitted that after the extension in service was granted, a request for creation of a supernumerary post of Additional Registrar was made by this Court on 06.10.2022 (Annexure R-1) and the necessary creation was done on 14.10.2022 (Annexure R-II) on the basis of the said request.

8. It is thus submitted that in such circumstances, the relief as sought for by the petitioner, is not liable to be granted.

9. A perusal of the order passed by the then Chief Justice, dated 25.08.2022, reads as under:-

"In exercise of the powers conferred on him under Article 229 of the Constitution of India and all other powers enabling him in this behalf, Hon'ble the Chief Justice is pleased to order that Shri Prem Chand Verma, Principal Private

Secretary to Hon'ble the Chief Justice, who is due to retire from service w.e.f. 31st August, 2022 (AN), on attaining the age of superannuation, is granted extension of service in the public interest for a period of one year w.e.f. 1st September, 2022, in the scale, pay, special pay and grade pay presently held by him with all consequential benefits as per law."

10. It is to be noticed that the said power was exercised under Article 229 of the Constitution of India in public interest for a period of one year, wherein it has been specifically mentioned that the benefits of scale, pay, special pay and grade pay would be granted to the petitioner with all consequential benefits. The State as such at the initial stage had communicated to the Registrar General on 22.12.2022 (Annexure R-2/A) to take necessary action in the matter on the administrative side. Relevant part of the said communication reads as under:-

*"The Registrar General,
High Court of Himachal Pradesh
Shimla-1*

Dated: Shimla-2, the 22nd December, 2022

Sub: Grant of annual increment during the term of extension in service: Clarification thereof.

Sir,

I am directed to refer to your letter No.HHC/Estt.3(336)/92-II-33282 dated 02.12.2022, on the subject cited above and to say that the matter was taken up with the Finance Department who have advised to decide the matter regarding grant of annual increment to Sh. Prem Chand Verma, Pr. P.S. during the term of his extension of service as per FD's instruction dated 23.06.2015 (copy enclosed).

You are, therefore requested on the administrative side to take necessary action in this matter accordingly."

11. Apparently, a communication was again issued on 18/19.01.2023 (Annexure P-3) by the Registrar General to the Principal Secretary (Home) to the Government of Himachal Pradesh, while referring to the above letter dated 22.12.2022, to re-consider the matter, pointing out that the then Chief Justice had ordered that the matter be taken up for according concurrence for the said benefit. The said communication reads as under:

*“With reference to your letter No. Home-B(B)1-7/2022 dated 22.12.2022, on the subject cited above, I have been directed to say that the Finance Department has merely considered and mentioned about Finance Department's Instructions dated 23.06.2015, however not taken note of the fact that Shri Prem Chand Verma, Principal Private Secretary to Hon'ble the Chief Justice was granted extension of service in public Interest for a period of one year w.e.f. 01.09.2022 in the scale, pay, special pay and grade pay presently held by him **with all consequential benefits as per law.***

*The matter was placed before Hon'ble the Chief Justice and his Lordship has been pleased to order to take up matter with the Government for according concurrence to the orders of Hon'ble the Chief Justice granting consequential benefits to Shri Prem Chand Verma, Principal Private Secretary to Hon'ble the Chief Justice, during his tenure of extension of service for a period of one year w.e.f. 01.09.2022, **as a special case.***

You are, therefore, requested to kindly re-consider the matter and to convey the approval of the State Government for grant of all consequential benefits to Shri Prem Chand Verma, Principal Private Secretary to Hon'ble the Chief Justice, during his tenure of extension of service for a period of one year

w.e.f. 01.09.2022, as a special case, at the earliest, please"

12. Thereafter, the State neither took a call on the matter nor declined the same and only confined to its earlier advice which had already been conveyed vide letter dated 22.12.2022, which would be clear from the order dated 24.03.2023 (Annexure R-2/B). The relevant part of the order reads as under:-

*"The Registrar General,
High Court of Himachal Pradesh
Shimla-1*

*Dated: Shimla -2, the 24th March,
2023*

*Subject: Grant of annual increment during
the term of extension in service.*

Sir,

I am directed to refer to your letter No.HHC/Admn.3(336)/92-II-2123 dated 18/19.01.2022, on the subject cited above and to say that the matter was taken up with the Finance Department who have examined the matter and invite the attention to the FD instructions dated 23.06.2015 wherein it has been clarified that no increase in pay will be admissible to a Government employee during the period of extension in service beyond the superannuation date and he will continue to

draw the same pay which he was drawing at the time of superannuation i.e. on attaining the age of 58 years or 60 years as the case may be. Hence, the Finance Department reiterates its earlier advice which has already been conveyed to you vide this Department letter of even number dated 22.12.2022(Copy enclosed).

You are, therefore requested on the administrative side to take necessary action in this matter accordingly."

13. Apparently, the matter had also been put up on the administrative side at one point of time on 20.07.2023. The then Chief Justice did not take any further action on the administrative side to direct that the matter should be again forwarded to the State Government for granting the consequential benefits. Resultantly, the present writ petition came to be preferred.

14. The question for consideration in this petition is whether the State has rightly denied the benefits or it has left it open as such to this Court to take a decision.

15. It is pertinent to notice that though the extension in service had been granted w.e.f. 31.08.2022, but Communication dated 02.12.2022 (Annexure P-2) was sent by the Registrar (Establishment) to the Additional Chief Secretary (Home) to the Government of Himachal Pradesh, seeking a query whether annual increment as such was to be granted to the petitioner or not. The said letter reads as under:-

"Subject: Grant of annual increment during the term of extension in service: Clarification thereof.

I am under direction to inform you that Shri Prem Chand Verma, Principal Private Secretary to Hon'ble the Chief Justice of this Registry, who was due to retire from service on 31.08.2022 (AN), was granted extension of service in public interest, for a period of one-year w.e.f. 01.09.2022, in the scale, pay, special pay and grade pay presently held by him with all consequential benefits, vide Registry notification dated 25.08.2022 (copy enclosed). Shri Prem Chand Verma is due for grant of annual Increment w.e.f. 01.11.2022, however, as per the provisions laid down in the Handbook on Personnel Matters (Volume-

II) (Edition 2021) and various instructions/letters issued by the State Government from time to time, it is not clear, whether Shri Prem Chand Verma is entitled for grant of annual increment during the term of his extension in service or not.

In view of the above, you are requested to kindly clarify whether annual increment can be granted to Shri Prem Chand Verma, Principal Private Secretary to Hon'ble the Chief Justice of this Registry during the term of extension of service.

Kindly assign "Top Priority" to it, please"

16. In our considered opinion, once the order had been specifically passed, the query was not required to be made, which has led to the unsavoury situation. Article 229 of the Constitution of India reads as under under which the extension power had been exercised:-

“229. Officers and servants and the expenses of High Courts:-

(1) Appointments of officers and servants of a High Court shall be made by the Chief Justice of the Court or such other Judge or officer of the Court as he may direct:

Provided that the Governor of the State may by rule require that in such cases as may be specified in the rule no person not already attached to the Court shall be appointed to any office connected with the Court save after consultation with the State Public Service Commission.

(2) Subject to the provisions of any law made by the Legislature of the State, the conditions of service of officers and servants of a High Court shall be such as may be prescribed by rules made by the Chief Justice of the Court or by some other Judge or officer of the Court authorised by the Chief Justice to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor of the State.

(3) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the Consolidated Fund of the

State, and any fees or other moneys taken by the Court shall form part of that Fund.”

17. Once the Handbook on Personnel Matters, Vol-II itself prescribes that for the period of extension in service, the benefit of increment has to be granted, the Handbook would prevail over the instructions dated 23.06.2015. The necessary Clauses read as under:-

“22.1 Superannuation

Superannuation is retirement from the service on attainment of specific age. The competent authority (Central or State govt.) decides on the age limit for different posts. F.R. 56 contains detailed provisions about the specific age of superannuation.

22.2 Distinction between Extension and Re-employment

The term "extension" is quite different from the term/ expression "re-employment".

Extension in service- *The extension in service is continuance in service and the officer/official does not superannuate or retires on reaching the date of superannuation.*

Further, the period of extension in service counts for qualifying service for the purpose of pension, gratuity and other retirement benefits, besides entitling the incumbent to full pay and allowances and increments etc. In addition, the

concerned officer/officials in whose favour extension in service is granted remains a member of service if he/she was so appointed and will be bound by the specific rules governing the service.

Re-employment- The employment after actual superannuation or retirement is called "re-employment". The re-employment may be from the date following the date of superannuation or after some period.

A re-employed officer/official gets pension and his/her pay is fixed under special orders. A re-employed officer/official is governed by the general rules governing service conditions of a Government employee and such other rules as may be specified in the terms of re-employment. The period of re-employment doesn't qualify as service for pension and other benefits, in so far as his/her service from which he/she had superannuated is concerned. However, the eligibility of a re-employed persons to a second pension based on the basis of re-employment will depend on the terms of the re-employment.

22.3 Extension or re-employment only in really exceptional circumstances

The age of retirement of different categories of Government employees has been laid down in the Fundamental Rules, 56. On attaining the age indicated in the above rules, retirement is automatic and in the absence of specific orders to the contrary by the competent authority a

government employee must retire on the due date. The date of superannuation of a government employee is known in advance and ordinarily there should not be the question of failure to make arrangements for his/her release sufficiently in advance. It is the responsibility of the administrative authority concerned to ensure that the government employees under their control so retire. It would be appreciated that in each case of extension or re-employment, it is not only the next man who misses promotion but often several people miss consequential promotions all along the hierarchical strata. Thus, one person getting re-employment/extension means deferment of promotion for six or seven persons. Too many cases of extension in service or re-employment are apt to cause frustration and affect the morale of the staff in general. Keeping in view these circumstances the following criteria and procedure have been evolved with a view to ensure that extension/re-employments of superannuated officers are resorted to only in really exceptional circumstances."

18. The above said provisions would go on to show that extension and re-employment in service and is granted only in exceptional circumstances, as per Clause 22.3. Once the then Chief Justice deemed it fit

as such while exercising powers under Article 229 of the Constitution of India, who required the services of the petitioner in exceptional circumstances, it was not for the Establishment again to raise the query as such. The said order itself was self-speaking.

19. Once the powers as such under Article 229 of the Constitution of India have been exercised by the then Chief Justice, we are of the considered opinion that the petitioner was entitled to all the benefits and therefore, would also be entitled for the annual increment.

20. We are also fortified in our thought that the Handbook on Personnel Matters would prevail in view of the judgment passed by the Co-ordinate Bench in LPA No. 190 of 2022, titled as ***State of Himachal Pradesh & others Versus Rajinder Fishta***, dated 15.06.2023. We are informed that no Special Leave Petition has been preferred before the Apex Court against the aforesaid judgment.

21. In the said case, extension in service had been granted to a Tehsildar for a period of one year by the Government. The Notification itself provided that he would not be granted the benefits of extension and additional increments/additional financial benefits, except last pay drawn. The representation made by the said Tehsildar had been rejected and resultantly, the writ petition came to be filed. The learned Single Judge had allowed the writ petition and quashed the order dated 25.04.2014 and directed the appellants therein to pay annual increment with all consequential benefits. The Letters Patent Appeal came to be filed against the order of the learned Single Judge, which was dismissed by holding that executive instructions in the Handbook would supplement the statutory rules and in the absence of statutory rules, the instructions would operate and the necessary increments had to be granted. The State as a model employer was held to not discriminate among its employees in this manner after having framed executive instructions, but to act as a

model litigant. Resultantly, the appeal was dismissed with costs of Rs. 10,000/-. The relevant part of the judgment reads as under:-

“16) This Handbook contains executive instructions in relation to personnel matters of State Government employees. Clause 22.2, Chapter 22 Vol-II thereof draws a distinction between “extension in service” and “reemployment”. It states that “extension in service” is continuance in service and the incumbent does not superannuate or retire on reaching the age of superannuation; that the period of extension in service counts for qualifying service for the purpose of pension, gratuity and other retirement purposes, besides entitling the incumbent to full pay, allowances and the increment etc. It also says that the incumbent remains a member of the service, he was so appointed, and he will be bound by the specific rules governing the service.

17) The said Clause distinguishes “extension of service” from “reemployment” by stating that employment after actual superannuation or retirement is called “re-employment” and the period of re-employment does not qualify his service for pension and other benefits, insofar as his service from which he had superannuated.

18) Having framed the executive instructions of the nature contained in Clause 22.2, Chapter 22 of the Handbook on Personnel Matters, Vol-II holding that the increment would be payable in case of extension in service, the appellants cannot deny the said benefit to the respondent since Clause 22.2, Chapter 22 of the Handbook on Personnel Matters, Vol-II is binding on the appellants.

19) It cannot be disputed that the executive instructions of this nature will supplement the statutory rules and in the absence of statutory rules, these instructions would operate. (**State of Jharkhand v. Jitendra Kumar Srivastava, 2013(12) SCC 210**). Obviously following these instructions, the appellants would have granted full pay, other allowances and also increments to those employees whose services had been extended. It is not their case that this was not done. Why the appellants sought to deny the said benefit of grant of additional increment to the respondent and discriminated him alone compared to others who have got same benefits, is not explained. The State as a model employer cannot discriminate among its employees in this manner and give a benefit which is conferred under the applicable rules/instructions to some, and deny the same to others."

22. A request for creation of a supernumerary post of Additional Registrar was made by this Court to the State Government on 06.10.2022 (Annexure R-1), the relevant part of which reads as under:-

"Subject: Creation of a supernumerary post of Additional Registrar.

Sir,

I have been directed to say that Shri Prem Chand Verma, Principal Private Secretary to Hon'ble the Chief Justice, was due to be retired from service, after attaining the age of superannuation, on and with effect from 31.08.2022 (A.N.). Hon'ble the Chief Justice, in exercise of powers conferred upon him under Article 229 of the Constitution of India, has been pleased to extend the services of Sh. Prem Chand Verma, as Principal Private Secretary to Hon'ble the Chief Justice, in the public interest, for a period of one year w.e.f. 1st September 2022, in the scale, pay, special pay and grade pay presently held by him with all consequential benefits as per law, keeping in view the long working experience of about 9 years on aforementioned post. Further, in order to cope up with consequential affect of aforesaid extension in service, on the promotional avenues down the line, His Lordship has ordered to create one

supernumerary post of the rank of Additional Registrar in the Establishment of this Registry with immediate effect till retirement of aforementioned officer.

In these circumstances, you are, therefore, requested to create one supernumerary post of the rank of Additional Registrar in the pay level 26 (i.e. 115000-207900/-) of pay matrix under HPCS(RP) Rules, 2022, plus usual allowances, with immediate effect till retirement of Shri Prem Chand Verma, Principal Private Secretary to Hon'ble the Chief Justice, at the earliest.

Please assign it top priority."

23. The aforesaid post of Additional Registrar was created vide Notification dated 14.10.2022 (Annexure R-II) on the basis of the aforesaid request, the relevant part of which reads as under:-

"The Governor Himachal Pradesh is pleased to order creation of 01 (One) supernumerary post of Additional Registrar for the period w.e.f. 01.09.2022 to 31.08.2023 in the Establishment of Himachal Pradesh High Court Registry.

This issues with the prior concurrence of the Finance Department

obtained vide their U.O. No. 55736558-Fin-F/2022, dated 13.10.2022."

24. Apparently, the said exercise of creation of the supernumerary post as such was only taken on account of the fact that the Handbook itself provides that by virtue of extension, next man (junior employee) would miss his promotion. If one person gets extension, it would lead deferment of promotion and would cause frustration tomorrow amongst the other staff. It was in such circumstances, that apparently a request was made by this Court to compensate the staff affected by the extension granted to the petitioner. Supernumerary post was created much later on 14.10.2022, whereas the extension had been granted prior in point of time on 25.08.2022 and, therefore, this objection raised as such at this stage that it was for the said purpose, is without any basis.

25. Resultantly, we are of the considered opinion that the writ petition is liable to be allowed keeping in view the settled principles of law. Resultantly, we allow

the writ petition with the direction to the respondents to grant the benefit of the annual increment w.e.f. 01.11.2022 to the petitioner within a period of four weeks, with all consequential benefits.

26. Pending application(s), if any, also stands disposed of.

(G.S. Sandhawalia)
Chief Justice.

November 18, 2025
(hemlata)

(Jiya Lal Bhardwaj)
Judge.