

**Government of Punjab,  
Department of Water Supply & Sanitation, Pb.  
Chandigarh.**

**OFFICE ORDER**

No. WSS/

Dated:

Sh. D.K. Bansal, the then Superintending Engineer in the department was due for retirement on 31.10.2015 upon attaining the age of superannuation i.e. 58 years. He applied for grant of extension in service which was refused vide an order dated 31.10.2015, in the light of the instructions of the Govt. dated 30.4.2015, as disciplinary proceedings under Rule 8 of Punjab Civil Services (Punishment and Appeal) Rules 1970 were pending against him. He impugned the said order by way of filing a CWP No. 24960 of 2015 whereupon while admitting the writ, the Hon'ble High Court passed an interim order dated 01.12.2015 staying the operation of the impugned order by further observing that "this order in its operating reason for denial will not be used against the petitioner in considering his case for extension in service in terms of the prevailing policy or to visit any other adverse consequence on the petitioner till further orders".

In view of the aforesaid interim order, Mr. D.K. Bansal, despite his having stood retired on 31.10.2015, submitted his joining report on 03.12.2015 but he was not posted anywhere which led him to file a CM No. 16729 of 2015 seeking his posting whereupon the Hon'ble High Court passed an order dated 24.12.2015, the relevant part of which is reproduced hereunder:-

*"Mr. Harkesh Manuja, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of the State. He would, in the meanwhile, gather the reasons as to why the petitioner has not been assigned to perform duty in the light of the interim order dated 01.12.2015, in case the averments made by the applicant-petitioner in the application are accepted as true. If there are valid reasons for non-grant of extension, leaving aside the interim order for the moment, the same can be shared with the Court on the next date of hearing to understand them. It would remain the option of respondent No.3 to candidly disclose his mind either on affidavit or by instructing Mr. Manuja on a one to one basis so that he is in a position to inform the Court the correct position and as to what is weighing in the mind of Additional Chief Secretary, Punjab in the case of the petitioner. Mr. Manuja would remind the Additional Chief Secretary, Punjab of the previous interim order dated*

*01.12.2015 and impress upon him that the time therein has run out. In case, the Additional Chief Secretary is unaware of the ground position, then this Court has no doubt that the interim orders passed by this Court would be positively obeyed to await the hearing on the stay matter for which an appropriate application can always be made."*

In compliance of the above order of the High Court, an order dated 15.01.2016 was passed asking the said officer to join at the Head Quarter. He joined on next day forenoon(FN) and thereafter was posted as Superintending Engineer, Water Quality, Mohali vide an order dated 26.2.2016.

The officer continued working on the strength of interim orders passed by the court as referred to above and intriguingly after completion of extended tenure of two years, a statement was made on his behalf by his counsel before the court that the petitioner had retired from service in October 2017 where upon the petition had been rendered infructuous. In view of this, the Hon'ble High Court vide its order dated 31.3.2018 dismissed the writ as infructuous. A similar statement was also made i.r.o. another writ petition bearing no. 24793 of 2015 which was filed for issuance of direction to the State for taking final decision with regard to disciplinary proceedings pending against him. In that writ petition also, it was stated on behalf of the petitioner that the final decision had been taken on inquiry report dated 27.11.2012 and therefore, the present petition had been rendered infructuous in view of which, the said writ petition was also dismissed accordingly vide orders of the same date.

At the same time, the officer moved an application dated 19.1.2018 for regularization of the period from 01.11.2015 to 26.02.2016 during which he remained without any posting. Accordingly, an office note was put up for considering his application for regularization of the said period. While legally examining the issue raised in his application, a question arose as to whether in the peculiar facts and circumstances of the case, the no-duty period of the petitioner can be regularized when the officer concerned continued holding the post during the extended period on the strength of interim directions only which were never made absolute on merits after final hearing or status quo ante should be restored or recovery of all the dues / salaries / allowances whatsoever was paid to him during the period of extension be made from him because the extension granted to him was rendered illegal in view of dismissal of his writ at his instance as aforesaid.

Before taking any decision on the question of regularization of the period from 01.11.2015 to 26.02.2016 as prayed for by the officer as well as on the question of affecting recovery from him, he was issued a show cause notice vide memo no. 3/8/2018-3BR2/1260200/1 dated 27.06.2018 which was duly replied by him vide letter no. Spl.-1/Ldh dated 02.07.2018. In compliance of principles of natural justice, he was

