(2025:HHC:39293)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPIL No. 26 of 2025
Reserved on 13.10.2025
Pronounced on: 21.11.2025

Atul Sharma .....**Petitioner.**

Versus

Union of India and others .....**Respondents.**

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.
The Hon'ble Mr. Justice Ranjan Sharma, Judge.
Whether approved for reporting?

For the petitioner:	Mr. Peeyush Verma, Senior Advocate with Mr. Kush Sharma and Mr. Ankit Dhiman, Advocates.
For the respondents:	Mr. S.D. Sanjay, Additional Solicitor General of India with Mr. Shubham Jain (through Video Conferencing) and Ms. Sheetal Vyas Central Government Standing Counsel (in person) for respondent No. 1-UOI.,
	Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Additional Advocate General for respondent No. 2-State.
	Mr. Shrawan Dogra, Senior Advocate with Mr.Tejasvi Dogra, Advocate for respondent No.3.

G.S. Sandhawalia, Chief Justice.

The present Public Interest Litigation has been filed seeking a direction to (i) quash the extension order dated 28.03.2025 **(Annexure P-1),** granting six months' service extension to Shri

Prabodh Saxena-respondent No-3 herein, as Chief Secretary, to the Government of Himachal Pradesh; (ii) direct the respondents to comply with DOPT Guidelines, particularly the Office Memorandum dated 09.10.2024, regarding Vigilance Clearance for service extension and appointment to sensitive post; (iii) direct an independent inquiry into the circumstances under which the defective Vigilance Clearance was granted to respondent No-3; and (iv) direct the initiation of disciplinary action against official(s) responsible for granting the Clearance Certificate, if any, after 09.10.2024, despite pending criminal proceedings, mainly on the following grounds:-

> (i) The extension of service granted to respondent No.3 is stated to be violative of Service Rules and DoPT Guidelines. As per the DoPT Office Memorandum dated 09.10.2024, Vigilance Clearance cannot be granted to an officer who is an accused in a corruption case under the Prevention of Corruption Act, 1988 (as amended in 2018). Clearance, if any, after 09.10.2024, despite the fact that Clauses 3(f) and 3(g) of the DoPT Guidelines prohibit granting Vigilance Clearance when a Charge Sheet has been filed in Court and when sanction for prosecution has been granted is bad in law.
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> (ii) The posts of Chief Secretary & Chairman, HP RERA are sensitive posts, which fall under Clause 2(vi) of the DoPT Guidelines. Clauses 2(iv) and 2(vi) require strict scrutiny and issue of Vigilance Clearance before granting extensions or deputations or appointment to sensitive posts. Since these these Guidelines having been by-passed, the extension order is stated to be in clear violation of established service norms and administrative exigency. Clause 5 of the DoPT Clearance provides that inputs must be obtained from

the State Government, the Central Vigilance Commission (CVC), and the relevant Ministry/Department of the Central Government. In the present case, none of these consultations were conducted, which makes the extension arbitrary and illegal.

(iii). It is stated that there are pending criminal charges against respondent No.3 and the CBI has already filed a charge sheet against respondent No.3 in a Corruption Case, and the Special Judge (PC Act), Rouse Avenue, New Delhi, has taken cognizance on the matter on 21.10.2019. The Government of India has granted sanction for Prosecution under Section 19 of the Prevention of Corruption Act, 1988, and Section 197 of Cr.PC and despite these pending criminal proceedings, Vigilance Clearance was granted, which is in contravention of Clauses 3(f) and 3(g) of DoPT Guidelines. Respondent No.3, in his tenure as Chief Secretary & Principal Secretary (Finance), Government of Himachal Pradesh, was allegedly involved in misusing his official position for personal gain, by-passing Administrative Norms to benefit selected individuals or entities, and failing to disclose full details of corruption inquiries pending against him. The complaints and inquiries against respondent No.3 have not been disclosed to the public, which raises serious concerns about the lack of accountability in the extension process.

Pleadings of the respondents:

2. The stand of respondent No.1 is that the writ petition is not maintainable as it is purely in the domain of the administrative discretion of the State and Central Government which does not warrant interference by this Court. The writ petitioner has no *locus standi* to challenge the decision of the Central Government to approve the grant of extension as Chief Secretary of the State of Himachal Pradesh at the request/instance of the State Government and the petitioner is not a person aggrieved. The needful has been done on the request of the State of Himachal Pradesh and the petitioner is just a busy body and not affected by the grant of such approval of extension for a period of six months by the Competent Authority of the answering respondent. The decision of such a nature of the Competent Authority of the Government of India is based on their satisfaction, with regard to the materials placed on record and the same purely being an administrative decision, is not justifiable to be challenged in a Court of law and Courts do not normally interfere in the policy decisions of the Government unless the policy decision is manifestly arbitrary, illegal and grossly committing infraction of the rules and regulations. The issue being service matter as such the Public Interest Litigation (PIL) is not maintainable and liable to be dismissed with exemplary costs.

3. Reference has been made to Rule 16 of the All India Services (Death-Cum-Retirement Benefits) Rules, 1958 (for short the "Rules, 1958") which lays down the power as such to grant extension to the Chief Secretary. The said Rule reads as under:-

> ***"16. Superannuation gratuity or pension.-***
> *16(1) A member of the Service shall retire from the service with effect from the afternoon of the last day of the month in which he attains the age of sixty years:*
> *Provided that a member of the Service whose date of birth is the first day of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years:*

> *Provided further that a member of the Service dealing with budget work or working as a full-time member of a Committee which is to be wound up within a short period may be given extension of service for a period not exceeding three months in public interest, with the prior approval of the Central Government.*
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> *Provided also that a Member of the Service holding the post of Chief Secretary to a State Government may be given extension of service for a period not exceeding six months on the recommendations made by the concerned State Government with full justification and in public interest, with the prior approval of the Central Government."*

4. Thus, it has been averred that the Central Government has been vested with the power to approve or disapprove the recommendation made by the State Government with full justification for such recommendation and in public interest, for the extension of the service of the Chief Secretary of the State. The Rule does not put any condition or restriction on the Central Government in exercising its power for granting such an approval for extension to the Chief Secretary of the said State which has made such recommendation when he is superannuating.

5. The Government of India (Transaction of Business) Rules, 1961 had been framed by the President of India and Rule 3 talks about disposal of business by Ministries and for the domain of Department of Personnel and Training under the Ministry of Personnel, Public Grievances and Pensions and the Minister in charge of the said Department is the Competent Authority.

6. Reliance has been placed upon the judgment of the Apex Court in ***GNCTD Vs. Union of India and others (2023) INSC 1049,*** pointing out that the judgment of a three-Judge Bench of the Apex Court dated 29.11.2023 noted that the extensions were granted as such to a large number of Chief Secretaries for over the period of time.

7. The proposal having been received from the Government of Himachal Pradesh by the Government of India, Department of Personnel and Training (DoPT) was put up before the Competent Authority and the same was approved by the Competent Authority and communicated to the Government of Himachal Pradesh. All the materials relating to the concerned Officer were put up before the Competent Authority and upon consideration of the same, approval for extension for a period of six months has been accorded in terms of Rule 16 of the third proviso to the "Rules, 1958". The said decision is purely administrative and not unjustified and there was no violation of any Rules, particularly the OM dated 09.10.2024 and its clarification dated 06.02.2025.

8. Additional affidavit was also filed stressing the same facts again that the approval of extension has not caused any adverse impact on the administration of the State and the petitioner has completed failed to make out any case of his being aggrieved by the act of the Competent Authority of the Union of India.

9. Reliance has been placed upon the various judgments as such by stressing that the Chief Minister of Himachal Pradesh had written a letter to the Competent Authority recommending the grant of extension to respondent No.3. In the said letter, full justification was sent out as to why the State Government further needed the services of respondent No.3, as he was leading and successfully executing various projects in the State in public interest. On the justification having been provided in the letter, which was in public interest, therefore, the Competent Authority of the Government of India, in view of the provisions of Rule 16 (1) of the "Rules, 1958", granted approval to the proposal of extension of the serving Chief Secretary for a period of six months and therefore the said action is in accordance with law. The powers of this Court under Article 226 of the Constitution of India are not as an Appellate Forum and has to merely test if the decision-making process is in consonance with the Statutory Rules and there is arbitrariness in the decision-making process. Had Rule 16 (1) of the "Rules, 1958" had not been adhered to, the petitioner had been justified. It is further averred that in the Central Government has also the power of relaxation of Rules, if so warranted. Keeping in view the fact that respondent No.3 had been working on sensitive post and has been taking ahead the Schemes of the State Government as such and therefore extension as such if granted would have adverse impact on administration and the due process has to be followed.

10. The stand of respondent No.1-State Government is that there is no illegality in granting the approval for extension in the service of Chief Secretary and reliance has been placed upon the principle that Public Interest Litigation (PIL) cannot be maintained in services matters and the maintainability is thus in question.

11. The respondent No.3 has served the State with dedication and sincerely with utmost honesty for above 35 years and was appointed as Chief Secretary on 31.12.2022 (AN) and he is an Indian Administrative Service (IAS) Officer of 1990 batch who had been allotted the Himachal Pradesh Cadre and was due to superannuate on 31.03.2025. The extension of service orders of respondent No.3 for a period of six months w.e.f. 01.04.2025 to 30.09.2025 was per the approval of respondent No.1 under Rule 16 of the "Rules, 1958".

12. Reliance has been placed upon the advice of the State Law Department that the charges had not been framed and mere grant of prosecution sanction or filing of the charge-sheet could not stand in the way. Similarly, he was granted promotion in the Apex

Scale as Additional Chief Secretary during that period and thus there there is no legal bar.

13. There was admission that sanction for prosecution had been granted against respondent No.3 in case RC/220/2017 E 00011, CBI, EO-II, under Section 19 of the Prevention of Corruption Act, 1988 and under Section 197 of the Code of Criminal Procedue (Cr.PC). The charge-sheet had been filed in the said case against M/s INX Media and others on 18.10.2019 and further cognizance has been taken by the learned Court on 21.10.2019. The case is stated to be at the stage of framing of charges.

14. Respondent No.3 had been promoted as Additional Chief Secretary on 27.08.2020, on completion of 30 years of service and the appointment to the post of Chief Secretary is not a promotion but is under the powers of Competent Authority to appoint as Chief Secretary amongst the Additional Chief Secretaries, who have completed 30 years of service. The petitioner has approached this Court after a period of five years from the date of his promotion to the post of Additional Chief Secretary and the petitioner was barred by delay and laches.

15. The petitioner had also submitted the representation against the candidature of respondent No.3 for the position of Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P.

RERA) and the said petition is for his self-gain and other ulterior motive cannot be denied.

16. The extension had been granted as per the provisions of the Rules and Vigilance Clearance had been given for the post of the Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA).

17. The Office Memorandum dated 09.10.2024 states that Vigilance Clearance is required for various categories and the Principal Secretary (Housing) to the Government of Himachal Pradesh had been duly informed about the pending case being the Administrative Secretary in respect of Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) and there was no concealment. Issue regarding the inclusion of the name of respondent No.3 regarding the list of Officers of Doubtful Integrity is under submission of the Competent Authority and the list as such in the connected litigation was filed by the Vigilance Department. It is clarified that re-employment of the State Government employees is considered as per the procedure prescribed under Chapter 22 of the Handbook on Personnel Matters and instructions issued by the State Government from time to time, whereas in the present case, Rule 16 (1) of the “Rules, 1958” would be applicable with different set of rules/instructions.

18. In the reply filed, respondent No.3 also stressed upon ulterior motive behind filing of the present petition for some hidden agenda and also that the representation had been given to the Chief Justice of this Court on 27.01.2025 regarding the fact that he could not be appointed to the post of Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) and therefore, it was stressed that Public Interest Litigation (PIL) was not maintainable in service matter at the instance of a stranger.

19. Rule 16 of the "Rules, 1958", which in turn has been framed under Section 3(1) of All India Services Act, 1951 and therefore there is no other Rule applicable and guideline dated 09.10.2024 were not applicable. The Vigilance Clearance certificate was issued only for the purpose of consideration for the post of Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) for which the respondent No.3 had also applied. The said certificate was not required for the purpose of grant of extension in service to existing Chief Secretary and was not granted by the Competent Authority.

20. It was averred that there was no right to sit in the judgment over the wisdom of respondents No.1 & 2 with respect to the policy decision of the Government in the matter of grant of service extension and therefore the maintainability of the petition as such was raked up again and the fact that no charges have been framed against the answering respondent. The case was stated to be fixed for summoning the four additional accused on 04.07.2025 and is at the pre-charge stage titled ***CBI Vs. M/s INX Media (P) Ltd. & Others*** and the trial had not started yet. Therefore, the name of the answering respondent was not to be included in the list of the Officers of Doubtful Integrity.

21. The said respondent was due to retire from service on 31.03.2025 being an Officer of the 1990 batch of the Indian Administrative Service (IAS) of the Himachal Pradesh Cadre, which granted the six months extension and it is clarified that he had not been appointed as Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) and the jurisdiction of this Court as such was objected on the ground that the service matter had to be challenged before the Central Administrative Tribunal (CAT).

22. Reference has been made to the similar petition which had been filed by one-Baldev Sharma by way of an intervention in CWPIL No.111 of 2017, whereby an application being CMP No.12339 of 2022 had been withdrawn on the ground that trial had not commenced.

23. All the eligible Officers of the Indian Administrative Service (IAS) of the Himachal Pradesh Cadre have already been promoted in the Chief Secretary Grade w.e.f. 01.01.2025, therefore, no eligible Indian Administrative Service (IAS) Officer of Himachal Pradesh Cadre has been deprived from promotion due to extension in service of respondent No.3. The approval of extension in service had been done in the full justification of the public interest.

24. Replication to the reply/written statement filed by respondent No.1 has been filed accordingly and maintainability of the petitioner has been justified. The respondent No.3 was holding the highest post in the administrative hierarchy in the State of Himachal Pradesh, which has the direct impact on the decision-making process. Therefore, keeping in view the allegations against him and the fact that he is facing trial of a nature, which per se dis-entitled him from grant of extension. The entire administration of the State and the Members of the General Public were affected and therefore, the question involved in the Public Interest Litigation (PIL) did not fall within the domain of service jurisprudence but is related to a matter of public importance.

25. The State remained accountable for the legality of such decision and the manner in which the extension had been granted which could be subject matter of review and whether the procedure prescribed had been followed and the Competent Authority had been duly kept in the picture, since the matter related to the public importance.

Arguments of counsel for the petitioner:

26. Keeping in view the said pleadings, Mr. Peeyush Verma, learned Senior Counsel appearing for the petitioner has raised the issue while placing reliance upon the decision in CWP No.231 of 2025 titled ***Vishal Sharma Vs. State of Himachal Pradesh and others,*** decided on 01.04.2025 **(Annexure P-8),** wherein the re-employment granted to respondent No.4 on the post of the Director, Animal Husbandry had been quashed. Accordingly, it has been argued that the extension as such had been granted but the authority had not kept in mind the fact that respondent No.3 was an accused as such and the charge-sheet had been filed against him on 18.10.2019 and even cognizance had been taken on 21.10.2019 by the Special Court which would be clear from communication dated 20.02.2025 **(Annexure P-4)** addressed from the Secretary Personnel to the Government of Himachal Pradesh to the Principal Secretary (Housing) to the Government of Himachal Pradesh which had come-forth. Permission had been sought to apply for the post of Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) and the necessary sanction had been granted under Prevention of Corruption Act and Cr.PC. It was accordingly argued that Rule 16 of the "Rules, 1958" specifically provided that the State Government with full justification and in public interest, with the prior approval of the Central Government has to justify the public interest. Accordingly, on the ground that respondent No.3 was holding very sensitive post and having criminal proceedings pending against him, the decision to grant him extension was not justified. Accordingly, it was argued that the request for extension was made on 20.03.2025 and granted on 28.03.2025 without even examining the aspect of the pendency of the of the criminal proceedings. Reliance was also placed upon the judgment of the Apex Court in ***E.P. Royappa Vs. State of Tamil Nadu & Another (1974) 4 SCC 3*** and the power of the Chief Minister to recommend was questioned and therefore the recommendation on his part alone as such was in question, while referring to the provisions of Rule 16 of the "Rules, 1958" that it was the State Government who had to make the recommendation and therefore there was no prerogative as such of the Chief Minister to make the recommendation.

Arguments of counsel for respondent No.1-Union of India:

27. Mr. S.D. Sanjay, learned Additional Solicitor General of India (through physical and video conferencing mode) has argued that on the question of maintainability of the petition and that meddlesome interlopers have no business to interfere in the functioning on the administrative exercise of power. The Central Government order was on the insistence of the State Government and it is not right as such to question and challenge the extension of any Officer and therefore being a service matter, Public Interest Litigation (PIL) was not maintainable. It was accordingly argued that it was the administrative action which was not amenable to judicial review and the record had been duly examined and therefore, the Courts jurisdiction was limited on the judicial review only to the extent that whether the procedure had been followed and not the decision- making process and therefore the jurisdiction of this Court is questioned to that extent. He placed reliance upon the judgment of Apex Court in ***Janta Dal Vs. H.S. Chaudhari (1992) 4 SCC 305*** and ***Tehseen Poonawala Vs. Union of India (2018) 6 SC 72.***

Arguments of counsel for respondent No.2-State:

28. Mr. Anup Rattan, learned Advocate General has pointed out that permission had already been granted to respondent No.3 who was appointed as Chief Secretary and the Vigilance Clearance Certificate had been issued only for the purpose to apply for the post of Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) and sanction for prosecution was granted on 26.08.2019. The respondent No.3 was appointed as Chief Secretary on 31.12.2022 and prior to that he was appointed as Additional Chief

Secretary on 27.08.2022. It is submitted that the case was at the initial stage and there was no charge framed and pending though the cognizance has been taken on 21.10.2019 and the supplementary charge-sheet has been filed against various persons and while referring to the order dated 28.05.2025 **(Annexure R-3/2),** it was pointed out that the additional accused as such had been summoned. The guidelines dated 09.10.2024 as such was not for the purpose of extension of service and were only for different set of exigencies. He had placed reliance upon the judgment of the Apex Court in ***Central Board of Secondary Education and Another Vs. Aditya Bandopadhyay and Others (2011) 8 SCC 497*** and submitted that in the absence of charge having been framed, the recommendation as such of the State Government cannot be questioned.

29. The complaint of the petitioner dated 14.01.2025 **(Annexure P-5)** had been duly considered and the Vigilance Clearance Certificate therefore, had been rightly issued and stressed that the Rules as such which would govern Indian Administrative Service (IAS) were once which would had been enacted under the All India Services, Act, 1951 and therefore the reliance placed upon the judgment of this Court in ***Vishal Sharma's case*** (supra) was not justified. Accordingly, it is argued that it is in larger Public Interest

Litigation (PIL), the recommendation had been made and the extension had been duly granted. The decision-making process was not liable to be interfered with and he relied upon the letter dated 26.02.2019 issued by the then Additional Chief Secretary that there was nothing to show that the petitioner as such was involved in the said case and the allegations pertain to the period, prior to his joining.

30. Accordingly, he relied upon the Rules of business that the Minister-In-Charge who is responsible as per Clause 1 and the extension of re-employment was to be done and there was power to the individual Minister of the Department for postings and transfers and of the extension also. Accordingly, it is contended that the Chief Minister was well justified and it was within his jurisdiction as such to make the necessary recommendation on behalf of the State Government.

31. He also referred to the additional affidavit filed by the Secretary (Personnel) to the Government of Himachal Pradesh that under Article- 166 (3) of the Constitution of India, the Rules have to be made for more convenient transactions of the business of the Government of the State and for allocation of such business among Ministers. For that the necessary set of Rules had been made. As per Rule 8 of the “Rules of Business” without prejudice to the provisions of Rule 7, the Minister-In-charge of a Department shall be primarily responsible for the disposal of the business pertaining to that Department. Reliance was placed upon the office order issued on 25.06.2021 by the Chief Minister being Minister-In-charge who is empowered and competent to recommend extension in service of the Chief Secretary and that it was falling within the legal parameters, in view of the standing orders.

Arguments of counsel for respondent No.3:

32. Mr. Shrawan Dogra, learned Senior Counsel appearing for respondent No.3 has submitted that it is the decision-making process which is being examined and has prior approval as per Rule 16 of the "Rules, 1958". The third proviso lays down that it is only for the post of the Chief Secretary and the outer limit is of six months. The State Government had made the recommendations with full justification and in public interest and prior approval has to be there and all the requirements had been done. The **Annexures P-2 & P-4** were part of the applications filed for the post of the Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) which were being taken advantage of by the petitioner. While referring to the Rules of Business of the Government of Himachal Pradesh, reference had been made to that the Minister-In-Charge of the Department was to be primarily responsible for disposal of the business and Rule 12 talks about the collective responsibility of the council.

33. Reference has been made to Article 166 of the Constitution of India by which the Rules of business of the Government of Himachal Pradesh, 1971 had been notified. Similarly, while referring to Rules 26 and 27, it was pointed out that by means of Standing Orders, Minister-In-Charge has to give direction as he thinks fit for disposal of cases in the Department and therefore justified the action as such on behalf of the Chief Minister. It was thus, accordingly argued that the action of the State Government would not suffer from any bias as such in view of the requirements at that point of time.

Consideration by us:

34. Keeping in view the fact that the issue in question is solely of extension as such of the Chief Secretary and the petitioner having stated that there is no personal interest of the petitioner and the petitioner is not guided by self-gain in view of the law laid down since it is not a service matter, this Court entertained the present Public Interest Litigation (PIL).

35. Keeping in view the arguments raised above, this Court is of the considered opinion that the following two issues arise for consideration:-

(i) Whether the present Public Interest Litigation (PIL) is maintainable.

(ii) Whether the action of respondent No.1 to approve the recommendation of the proposal for extension of service could be a subject matter of judicial review and whether this Court would go on to examine that whether it is justifiable in the facts and circumstances.

(i) Whether the present Public Interest Litigation (PIL) is maintainable.

36. While dealing with the Issue No.(i) regarding the jurisdiction of this Court as such in exercising the Public Interest Litigation (PIL), it has to be seen that presently we are dealing with the issue of the extension of service of an Officer facing serious charges and sanction has been granted for prosecution under Section 19 of the Prevention of Corruption Act and 1988 and under Section 197 of the Code of Criminal Procedure (Cr.PC). It is not disputed that the proceedings are pending before the Special Judge at Delhi, wherein the respondent No.3 is arrayed as accused No.10.

37. The perusal of one of the orders dated 01.09.2025 would go on to show that the said respondents put in appearance by way of video conferencing alongwith his counsel(s). Similarly, the communication dated 26.08.2019, which has been issued by the Department of Personnel and Training under the Ministry of Personnel, Public Grievances and Pensions would go on to show that the report of the CBI as such was submitted regarding the FIPB approval to M/s INX Media (P) Ltd., regarding the issuance of shares to foreign investors and the foreign inflow as such which was received and the downstream investment made without the approval of FIPB to the extent of Rs.40.91 Crores, in violation of FEMA guidelines. At that point of time, the respondent No.3 was working as Director, Foreign Investment Promotion Board (FIPB), Department of Economic Affairs, Ministry of Finance, Government of India, New Delhi from the period of 02.04.2008 to 13.07.2010. The allegations that he alongwith co-accused entered into a conspiracy for the common object with the M/s INX Media (P) Ltd., and INX News (P) Ltd., alongwith other accused as such for making the downstream investment with another company without specific approval and he was well acquainted with the background of the case. In such circumstances, the advice of the Central Vigilance Committee was obtained and sanction for prosecution was granted in the name of the President.

38. A perusal of the order dated 30.09.2022 **(Annexure P-7)** would also go on to show that respondent No.3 had filed an application for exemption and it was noticed that the charge-sheet had been filed against him in the month of August and that point he was working as the Additional Chief Secretary, Finance, Economics, Statistics and Planning; along with heavy charge of Personnel, Environment, Science & Technology to the Government of Himachal Pradesh and also the Chairman of State Pollution Central Board of the Government of Himachal Pradesh. Resultantly, keeping in view the said fact that for being present on each and every date would have affected the work and business of the Government of Himachal Pradesh, therefore, the exemption had been granted by the Special Judge.

39. The extension of Officer with serious corruption allegations would be undermining public interest in the Government and its commitment to ethical administration. The issue would arise whether the said aspect had been examined by respondent No.1 to grant the necessary extension and whether respondent No.1 was apprised as such of all these facts before the grant of extension or was it done oblivious of these facts.

40. In such circumstances, we had asked the Additional Solicitor General of India also whether the Government of India has examined the issue and put up both the pros and cons of the Officer in question for the Competent Authority vide order dated 22.09.2025. On that date, we had not been given any access as such to the records and vide subsequent proceeding dated 23.09.2025, it was pointed out that the relevant file/record can be produced and would be produced by way of 'Special Messenger'. Accordingly, the record had been produced.

41. In such circumstances, it cannot be said that this Court as such would not have jurisdiction and the Public Interest Litigation (PIL) would not be maintainable. The Fundamental Principle of Service Jurisprudence is that Public Employment must be free from arbitrariness, favoritism, and extraneous considerations: Granting extension of service to an officer facing corruption charges would only erode public confidence in governance, thereby violating the right of citizens to an honest and accountable administration. The Doctrine of Public Trust, establishes that Public Officials are Trustees of the Power conferred upon them and therefore, it is but necessary that this Court as such would exercise its jurisdiction whether there was any misuse of administrative discretion and an act against public interest since the General Public has legitimate expectation that government decisions would be transparent, fair, and free from arbitrariness. The appointments to sensitive posts have to be free from any taint of corruption and must withstand the test of institutional integrity and also the administrative actions that shield or protect corrupt officials, weaken the fight against corruption and violate the constitutional commitment to clean governance. The appointment on sensitive posts has to be free from corruption and the administrative actions have to consolidate and not act as a shield to protect the corrupt. The need to protect such an individual under the garb of issue of service law, maintainability of public interest would defeat, the jurisdiction of Public Interest Litigation (PIL). Therefore, we are of the considered opinion that the argument which is being raised as such that this Court in Public Interest Litigation (PIL) would not as such examine the issue of the extensions on the ground that the observations made by the Hon'ble Supreme Court that the Public Interest Litigation (PIL) should not be entertained as such in cases of service litigation is not liable to be maintained.

42. It is to be noticed that the petitioner himself is not contestant for the said post and only projected himself as person not guided by self-gain or any other interest or having any personal interest. Nothing has come on record as such that he had any particular axe to grind against respondent No.3. It is also not disputed that he had represented to the High Court against the permission granted to respondent No.3 to apply for the post of the Chairman, Himachal Pradesh Real Estate Regulatory Authority (H.P. RERA) also on the same lines.

43. In such circumstances, once the respondent No.3 is holding the post of Chief Secretary, it is for this Court also to keep in mind whether the procedure prescribed has been adhered to while granting him extension and therefore the petitioner and the general public has a right to know whether there has been any misuse of any power and administrative discretion which would be in Public Interest.

44. The powers of judicial review being large as such regarding this aspect, the Court cannot as such shut its eyes on the ground that the Public Interest Litigation (PIL) would not be maintainable in the peculiar facts and circumstances. As the appointment to the sensitive posts must be free and must withstand the test of institutional integrity and not acted as a shield as such only to protect corrupt officials which will weaken the fight against corruption. The argument as such raised that this Court, while exercising the jurisdiction under Public Interest Litigation (PIL) would not examine the issue and throw out the petitioner along with the water like the *'baby in the bath tub'* is not tenable and acceptable.

45. The extension of service granted to respondent No.3 cannot violate the principles of fair play, transparency, and probity in public administration, keeping in view the fact that Chief Secretary is continuing occupying the highest position for the Executive Authority and it would undermine public confidence and governance, if this act as such is allowed to be shielded on the ground that the matter pertains to service litigation.

46. In ***Janta Dal's case*** (supra), the Apex Court had examined the issue of Public Interest Litigation (PIL) and it was held that the legal action for the enforcement of public interest or general interest in which the public or a class of the community having some interests are affected and its wider connotation of the expanding role of the Courts as such and the emergence of the notion of "access to justice" was highlighted. While tracing the seed of the concept of PIL which were initially sown in India in 1976 by Justice Krishna Iyer in ***Mumbai Kamgar Sabha Vs. Abdulbhai (1976) SCC (3) 832*** and after examining a host of the authorities as such the conclusion arrived was that in exercise for the betterment of the public at large in many fields in conformity with constitutional prescriptions of what constitutes the good life in a socially just democracy and dynamic activism in the field of PIL is no means less than those of other activist judicial systems in other part of the world. It has been held that an enumerate exhaustive list of entertaining a Public Interest Litigation cannot be drawn up while noting the facts that vexatious and frivolous litigation also had to be kept in mind. As it is the duty of the Court that it should not be misused and should not be vindicating any personal grievance.

47. Keeping in view the peculiar facts and circumstances, the finding arrived was that it was the Public Interest Litigation (PIL) in question which was the issue of the bribe of kick-backs in Bofors gun purchase was an issue of public importance which could not have been as such initiated and the findings were recorded that petition filed by H.S. Chaudhari showed that he is very concerned with the private interest of the accused in the criminal case. Therefore, the exercise as such to cut-short the criminal proceedings by resort to the Public Interest Litigation (PIL) as such was not justified and would be thus of no help to the Union of India.

48. In ***Tehseen Poonawala's case*** (supra), the issue was of the death of the Special Judge who was conducting the trial in the fake encounter death case (Sohrabuddin Sheikh) and the three-Judge Bench of the Apex Court had taken into conclusion that it was the misuse of the Public Interest Litigation (PIL) as there was material to show that the death was due to the natural cause. Therefore, the said judgment as such would not be of any assistance rather while dealing with the issue of Public Interest Litigation (PIL), it was held that the Public Interest Litigation (PIL) is a powerful instrument to preserve the rule of law and ensure the accountability and transparency within the structure of governance and valuable instrument in jurisdictional tool to promote structural due process. Caution as such was put that in the business rivalries, the Court would not step in and in such circumstances the jurisdiction as such was held not to be liable to be exercised. It was held that the Public Interest Litigation (PIL) was entertained by relaxing the traditional rule of standing and if a person who has no personal interest in the outcome of the proceedings and only has the general standing, the objectivity in the governance has to be taken into consideration.

49. Reliance placed upon the judgment of the Apex Court in ***Girjesh Srivastava Vs. State of Madhya Pradesh (2010) 10 SCC 707*** also would not be of much help since it is the case where the dispute was selection and appointment and on account of the interference by the Court, it was rendering the appellants unemployed and cancellation of their appointments and the said exercise as such had been conducted without even impleading the necessary person's as such.

50. Similarly, the judgment of the Apex Court in ***Vishal Ashok Thorat Vs. Rajesh Shrirambapu Fate (2020) 18 SCC 673,*** was again a case of an interference for the select list and non-impleadment of the selected candidates who were Assistant Inspector's of the Motor Vehicles Group-C, whereby challenge had been laid to the 2016 Rules regarding the two advertisements in question. In such circumstances the judgment of the High Court had been set aside and therefore would have no applicability to the facts and circumstances of the present case.

51. In ***Onkar Lal Bajaj Vs. Union of India, AIR 2023 SC 2562,*** the issue was allotments made with respect to retail outlets, LPG distributorships and marketing of petrol and diesel, superior kerosene oil (SKO), light diesel oil (LDO) and liquefied petroleum gas (LPG) by the Public Sector Companies. Resultantly, it was held that there should be transparency and manifest equity, fair play and justice. The Government had to rise above the nexus of vested interests and nepotism and eschew window-dressing and the principle of governance has to be tested on the touchstone of justice, equity and fair play. Resultantly, a committee as such had been constituted to examine 413 cases, since large number of people would be deprived of their livelihood on account of the fact that there was a en masse cancellation as such of the outlets and it had been held that en masse cancellation was non-application of mind as none of the cases was examined and therefore rather reliance can be placed upon the said judgment.

52. In ***Meerut Development Authority Vs. Association of Management Studies (2009) 6 SCC 171,*** the issue was of allotment of land. Resultantly, it has been held that the High Court had converted the judicial review proceedings into an inquisitorial one and the Judges had substituted their own views for the views of the decision-maker. Resultantly the appeals were allowed, whereby fresh bids had been made after rejecting the offer made by the respondent in the case.

53. Resultantly, we are of the considered opinion that keeping in view the nature of controversy as such and the fact that there has to be transparency as to the reasons which led to the extension and the general public has a right as such to know as to why the exercise of power was done by the highest authorities. It would only be in the stellar quality that this Court should examine the issues rather than give it a burial as contended by the respondents. Therefore, we reject the issue that the present petition is not maintainable being a Public Interest Litigation (PIL).

54. The Constitutional Bench in ***E.P. Royappa's case*** (supra), has held that the post of Chief Secretary is a highly sensitive post and there has to be complete rapport and understanding between the Chief Secretary and the Chief Minister and if there is any lack of confidence as such the person can be shifted to another post and in view of the fact that there is no question who is right or wrong.

55. In ***GNCTD's case*** (supra), the issue was also regarding the extension as such of the Chief Secretary, New Delhi. The Apex Court had taken into consideration 57 instances, since 2013, where extensions had been granted under the Rule and fallen back on the judgment in ***E.P. Royappa's case*** (supra) that it was a post of great confidence and he was the lynchpin of the administration and therefore, it cannot be said that this Court should not examine the issue whether the extension was with full justification and public interest.

Issue No.(ii) Whether the action of respondent No.1 to approve the recommendation of the proposal for extension of service could be a subject matter of judicial review and whether this Court would go on to examine that whether it is justifiable in the facts and circumstances.

56. During the course of hearing, the record was produced before this Court, keeping in view the order dated 13.08.2025, which would go on to show that the request had been made on 20.03.2025 by the present Chief Minister namely-Shri Sukhwinder Singh Sukhu that on account of the various measures to ensure sustainable development of the State including developing as Green-State and tourist destinations and for financial discipline purposes and facing rational measures, the requirement of respondent No.3 who was spearheading measures was required for proper effecting, implementing of reforms and resultantly extension was sought for a period of one year i.e. upto 31.03.2026 for fulfilling the stated objects. It was also apparently addressed to the Hon'ble Prime Minister of India regarding the issue of Green-State, Green-Hydrogen, Solar Energy, e-buses and e-taxies etc., and the requirement of the said respondent and the steps and measures which had been taken by him and which eventually has led to the grant of extension vide impugned order which is under challenge.

57. We have also gone through the proposal which was put up on the noting portion as such, wherein various instances were also given that seven Officers have been granted similar extensions for the period ranging from three months to six months and to one year in various States. There is a reference as such regarding the sanction for prosecution accorded against the Officer and the charge-sheet which had been filed and the case pending trial, which eventually has led to the formal order being passed by noting that the Vigilance Clearance has been denied as the sanction of prosecution had been accorded.

58. It is thus apparent that the Competent Authority was thus well apprised of all the facts and circumstances as such of the pendency of the criminal proceedings and the stage as such. Once this aspect has been kept in mind, we are of the considered opinion that the ambit of this Court is limited to the extent of judicial review whether the Competent Authority was duly apprised as such of the background of the case especially, keeping in view the manner, it transpired that the application for extension had been filed on 20.03.2025 and the necessary benefits have been granted on

28.03.2025. Therefore, being a very sensitive post whether the Competent Authority had been apprised on the said issue of the background of the case of respondent No.3 had crossed our mind.

59. These facts having been brought to the notice of the Competent Authority, we are of the considered opinion that keeping in view the provisions of Rule 16 of the “Rules, 1958” as reproduced above and the fact that there is correspondence to show that the Chief Minister as such was dependent upon the said Officer and wanted his services for a period of one year, on that basis, the recommendation had been made and the prior approval had been granted which led to the extension order being passed. It is the settled principle that the scope of judicial review would be qua the decision-making process and once there was full justification given in Public Interest Litigation (PIL) and its fall within the ambit of the Rule and as stressed by Mr. Shrawan Dogra, learned Senior Counsel appearing on behalf of respondent No.3 that discretion has only to be exercised in very limited circumstances mainly for the post of the Chief Secretary which would be clear from the reading of Rule 9 with a limitation of six months. Thus, this Court would not be in a position to substitute the opinion as such of the Competent Authority which had carried out the due process before grant of permission.

60. It has also been brought to our notice that apparently Special Judge has not framed the charge as such against respondent No.3 and therefore mere filing of the charge-sheet would not as such put him to any disadvantage of this position.

61. Reliance can also be placed upon the judgment regarding this aspect in ***Union of India Vs. K.V. Jankiraman AIR 1991 SC 2010.*** The relevant portion reads as under:-

> *"6. On the first question, viz., as to when for the purposes of the sealed cover procedure the disciplinary/criminal proceedings can be said to have commenced, the Full Bench of the Tribunal has held that it is only when a charge-memo in a disciplinary proceedings or a charge-sheet in a criminal prosecution is issused to the employee that it can be said that the departmental proceedings/criminal prosecution is initiated against the employee. The sealed cover procedure is to be resorted to only after the charge-memo/charge-sheet is issued. The pendency of preliminary investigation prior to that stage will not be sufficient to enable the authorities to adopt the sealed cover procedure. We are in agreement with the Tribunal on this point. The contention advanced by the learned counsel for the appellant-authorities that when there are serious allegations and it takes time to collect necessary evidence to prepare and issue charge-memo/charge-sheet, it would not be in the interest of the purity of administration to reward the employee with a promotion, increment etc., does not impress us. The acceptance of this contention would result in injustice to the employees in many cases. As has been the experience so far, the preliminary investigations take an inordinately long time and particularly when they are initiated at the instance of the interested persons, they are kept pending deliberately. Many times they never result in the issue of any charge-memo/charge-sheet. If the allegations are serious and the authorities are keen in investigating them, ordinarily it would not take much time to collect the relevant evidence and finalise the charges. What is further, if the charges are that serious, the authorities have the power to suspend the employee*

under the relevant rules, and the suspension by itself permits a resort to the sealed cover procedure. The authorities thus are not without a remedy. It was then contended on behalf of the authorities that conclusions Nos. 1 and 4 of the Full Bench of the Tribunal are inconsistent with each other. Those conclusions are as follows:

"(1) consideration for promotion, selection grade, crossing the efficiency bar or higher scale of pay cannot be withheld merely on the ground of pendency of a disciplinary or criminal proceedings against an official;

(2)……………………………………………….

(3)……………………………………………….

(4) the sealed cover procedure can be resorted only after a charge memo is served on the concerned official or the charge sheet filed before the criminal court and not before;"

There is no doubt that there is a seeming contradiction between the two conclusions. But read harmoniously, and that is what the Full Bench has intended, the two conclusions can be reconciled with each other. The conclusion No. 1 should be read to mean that the promotion etc. cannot be withheld merely because some disciplinary/criminal proceedings are pending against the employee. To deny the said benefit, they must be at the relevant time pending at the stage when charge-memo/charge-sheet has already been issued to the employee. Thus read, there is no inconsistency in the two conlcusions.

We therefore, repel the challenge of the appellant-authorities to the said finding of the Full Bench of the Tribunal."

62. The said view was thereafter also followed in the judgment of the Apex Court in ***Chairman-Cum-Managing Director, Coal India Limited and Others Vs. Ananta Saha and Others (2011) 5 SCC 142*** and thereafter again reiterated in the judgment of the Apex Court in ***Union of India and Others Vs. Anil Kumar Sarakar (2013) 4 SCC 161.***

63. Keeping in view this aspect that Competent Authority having been apprised with the fact that criminal proceedings are pending and since charge had not been framed had granted the necessary extension it is not for this Court as such to come to the conclusion that the decision-making process by the Competent Authority was not justified by substituting its opinion.

64. Reliance can be placed upon the judgment of Apex Court in ***State of U.P. Vs. Johri Mal (2004) 4 SCC 714,*** wherein the issue as such was re-appointment of the Public Prosecutor in the State of U.P. Resultantly, it was held that while exercising the power under Article 226 of the Constitution of India there is limited scope and this Court does not sit in appeal over the decision of the administrative bodies unless it is shown that the exercise of discretion itself is perverse or illegal. The relevant portion reads as under:-

> *"28. The scope and extent of power of the judicial review of the High Court contained in Article 226 of the Constitution of India would vary from case to case, the nature of the order, the relevant statute as also the other relevant factors including the nature of power exercised by the public authorities, namely, whether the power is statutory, quasi-judicial or administrative. The power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent. The power is not intended either to review governance under the rule of law nor do the courts step into the areas exclusively reserved by the suprema lex to the other organs of the State. Decisions and actions which do not have adjudicative disposition may not strictly fall for consideration before*

> *a judicial review court. The limited scope of judicial review, succinctly put, is:*
> *(i) Courts, while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies.*
> *(ii) A petition for a judicial review would lie only on certain well-defined grounds.*
> *(iii) An order passed by an administrative authority exercising discretion vested in it, cannot be interfered in judicial review unless it is shown that exercise of discretion itself is perverse or illegal.*
> *(iv) A mere wrong decision without anything more is not enough to attract the power of judicial review; the supervisory jurisdiction conferred on a court is limited to seeing that the Tribunal functions within the limits of its authority and that its decision do not occasion miscarriage of justice.*
> *(v) The courts cannot be called upon to undertake the government duties and functions. The court shall not ordinarily interfere with a policy decision of the State. Social and economic belief of a judge should not be invoked as a substitute for the judgment of the legislative bodies. (See Ira Munn Vs. State of Illinois.)"*

65. Keeping in mind the restrictions as such on the judicial review, we are of the considered opinion that it is not for this Court to substitute the merits of the decision as it is only the decision-making process which has to be examined. The irrationality as such or the rationality is not to be gone into and the impact on the administration has to be seen. The action of the State has to be judged with extreme care and circumspection but the public authorities have to be given sufficient elbow space and play in the joints for proper exercise of discretion. The choice of the Government and the right for the extension has to be kept in mind as noticed that it is the position of great trust and confidence and the said Officer has a public duty to perform with discretion as such exercised at the request of the State Government and thus which would be justified in the facts and circumstances. Keeping in view the fact that sufficient cause has been made out in the recommendations made on account of the public interest and the justification given which was acted upon by the Competent Authority, once, the Competent Authority as such had been apprised to the background of the case and the decision- making did not suffer from any ambiguity, we are not inclined to go into the decision-making process itself by substituting the same by our own personal opinion as we are not sitting over as a Court of appeal.

66. Reliance can also be placed upon the judgment of the Apex Court in ***Transport and Dock Workers Union Vs. Mumbai Port Trust (2011) 2 SCC 575,*** whereby while placing reliance upon the judgment of ***Missouri, Kansas and Texas Railway Co. Vs. May, 48 L Ed 971 : 194 US 267 (1903),*** it has been held that the free play in the joints for the machinery of the Government has to be given and the same would not work and an absolute inflexible concept was an anathema to progress and change and excessive interference in the function of the executive by the judiciary was not proper and judicial restraint has to be exercised. The issue as such was the working hours for seven-and-half hours excluding lunch break in the term of the employment. Resultantly, it was held that in the administrative matters until the decision is clearly violative of some statute or is shockingly arbitrary, the Court would defer the judgment. The relevant paragraph as such whereby the reliance was placed upon the quotations of legal jurists would throw the substantial light on the issue which reads as under:-

> *"44. In administrative matters the Court should, therefore, ordinarily defer to the judgment of the administrators unless the decision is clearly violative of some statute or is shockingly arbitrary. In this connection, Justice Frankfurter while Professor of Law at Harvard University wrote in The Public and its Government:*
>
> > *"With the great men of the Supreme Court constitutional adjudication has always been statecraft. As a mere Judge, Marshall had his superiors among his colleagues. His supermacy lay in his recognition of the practical needs of the Government. The great Judges are those to whom the Constitution is not primarily a text for interpretation but the means of ordering the life of a progressive people."*
>
> *45. In the same book Justice Frankfurter also wrote:*
>
> > *"In simple truth, the difficulties that the Government encounters from law do not inhere in the Constitution. They are due to the Judges who interpret it. That document has ample resources for imaginative statesmanship, if Judges have imagination for statesmanship."*
>
> *46. In legal scholarship, Roscoe Pound challenged the rigid formalism of Justice Field. Pound strongly argued against a jurisprudence founded upon immutable first principles and sought in the social sciences and related fields a means for making the law responsive to a changing world.*
>
> *47. As observed by Justice Frankfurter:*
>
> > *"It would be comfortable to discover a Procrustean formula…. If such were the process*

> *of constitutional adjudications in this most sensitive field, it would furnish an almost automatic task of applying mechanical formula and would hardly call for the labors of Marshall or Taney, of Holmes or Cardozo. To look for such talismanic formula is to assume that the broad guarantees of the Constitution can fulfill their purpose without the nourishment of history."*
>
> *48. In Kesavananda Bharati Vs. State of Kerala (vide AIR para 1547) Khanna, J. observed (SCC p. 821, para 135)*
>
> > *"1535. In exercising the power of judicial review, the courts cannot be oblivious of the practical needs of the Government. The door has to be left open for trial and error."*
>
> *49. In the present case there was a reasonable basis for the classification, and hence there is no violation of Article 14 of the Constitution.*
>
> *50. For the reasons given above there is no merit in this appeal and hence it is dismissed."*

67. In ***Dilip Kumar Garg Vs. State of U.P. (2009) 4 SCC 753,*** the Apex Court had declined to substitute its opinion for the qualification for the promotion of the Junior Engineer to Assistant Engineer and whether the degree holder and diploma holder were to be treated as equal being a policy decision, while placing reliance upon the judgment of the Apex Court in ***Tata Cellular Vs. Union of India (1994) 6 SCC 651.***

68. Resultantly, keeping in view the settled principle of law as noticed above once the Competent Authority was apprised with the background of the case pertaining to respondent No.3 and keeping in view the exigencies and the requirements of the State as stressed by the Chief Minister on behalf of the State Government, this Court is of the considered opinion that the extension which was granted was within the ambit of the Rule 16 of the “Rules, 1958” and therefore, is not liable to be interfered with while exercising power under Article 226 of the Constitution of India.

69. Reliance upon the judgment of the Coordinate Bench in ***Vishal Sharma’s case*** (supra) would go on to show that it was a case of re-employment granted to the post of Director, Animal Husbandry and the Rules in question were contained in Chapter 22 of the Hand Book on Personnel Matters and it was not a case of extension of the Chief Secretary as such which is under different set of Rules, as noticed. Therefore, in the said case findings were recorded that the procedure followed had not been adhered to and it was held that the re-employment cannot be countenanced and has been set aside while noting that the file was not at all processed by the department. Therefore, the justification was found lacking. Thus, the facts as such in the said case cannot be said to be similar, in any manner, to the present case.

70. Therefore, keeping in view the fact that while answering the first question in favour of the writ petitioner, we decline to interfere in the decision-making process regarding the extension granted and the discretion which was exercised by respondent No.1 to grant the benefit of six months extension to respondent No.3.

71. It is also to be noticed that during the course of arguments that the period as such of six months had also expired on 30.09.2025 and the judgment was reserved on 13.10.2025. However, on account of the fact that if the decision-making process had been held faultly there would have been legal and financial implications for respondent No.3 and the question of law as such having been raised we had proceeded to decide the issue on merits.

72. Resultantly, we dismiss the present writ petition while deciding the issue No.(ii) against the writ petitioner.

73. Pending miscellaneous application(s) if any, shall also stand disposed of.

74. Photocopy of record be returned to counsel for respondent No.1.

(G.S. Sandhawalia)
Chief Justice

(Ranjan Sharma)
Judge

21st November, 2025
(Munish Thakur)