



CWP-6519-2017

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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CWP-6519-2017 (O&M)

Date of decision: 07.01.2025

Paramjit Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jaspal Singh Pannu, Advocate, for the petitioners.

Mr. Charanpreet Singh, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing the order dated 27.01.2017 (Annexure P-1), qua the petitioners, whereby they have been treated as fresh incumbents, resulting in the denial of their rightful entitlements and discriminatory treatment as against similarly situated employees.

2. The Village Development and Panchayat Department in 2001 advertised 51 positions, later expanding them to 108 in the reserved category for physically challenged individuals. The petitioners, all with a disability of 40% or more, applied for these roles. Petitioner No. 1 was selected as a Veterinary Pharmacist, while Petitioners No. 2 and 3 were hired as Peons. However, on 02.08.2002, they, along with 105 other employees, were terminated without being issued a show cause notice, which was contested by filing CWP-13783-2002 and the same was



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allowed by the Division Bench vide order dated 15.03.2004, with a direction to reinstate them, but liberty was granted to the competent authority to take fresh action. This was again made subject matter of CWP-13747-2010, decided on 26.08.2011, vide which the competent authority was directed to constitute a medical board for fresh examination of petitioner No. 1 and in case, he was found to be suffering from permanent disability on the cut-off date prescribed for submission of the application form, his claim was to be considered sympathetically and Petitioner No. 2 was allowed the liberty to establish his eligibility in terms of the Government Policy before the Competent Authority, while petitioner No. 3 was given an appointment letter before the matter was heard. Relevant paras of the order passed on 26.08.2011 are reproduced below:

“19) The so-called irregularities noticed by the respondents would not render the selection process vitiated by fraud, extraneous considerations or inconsistent with the mandate contained in Articles 14 & 16 of the Constitution. The irregularities noticed above do not go to the root of the matter and were liable to be overlooked being trivial in nature. The services of the petitioner (s) belonging to a 'special' class for whom the Authorities need to have special compassion, ought not to have been terminated on these small 'pretexts'

(20) For the reasons afore-stated, the writ petition is allowed and the order dated 25.02. 2010/04.03. 2010 (Annexure P2) is hereby quashed and the petitioner (s) are ordered to be re-instated in service with all consequential benefits.

CWP No. 13747 Of 2010 (O&M)

The petitioner, in this case, is said to have relied upon the certificate of permanent disability' issued by a private doctor. Counsel for the petitioner submits that subsequently a certificate duly issued by the Civil



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Surgeon was submitted with the Authorities. Be that as it may, this writ petition is disposed of with a direction that the competent authority may subject the petitioner to a fresh examination before a Medical Board, and if it is satisfied that the petitioner had actually been suffering from a permanent disability on the cut-off date prescribed for submission of the application form, shall consider the claim of the petitioner sympathetically in the light of the observations made hereinabove.

CWP No. 13747 of 2010 is accordingly disposed of.

CWP No. 14726 of 2010 (O&M)

At the outset, learned State counsel points out that the nature of permanent disability allegedly suffered by the writ-petitioners has been assessed to less than 40% and as such they are not entitled to claim the benefit of reservation meant for physically-challenged persons. The writ petition is accordingly dismissed, however, with, liberty to the petitioners to establish their eligibility in terms of the Government Policy before the competent authority, if so advised.

With liberty afore-stated, CWP No. 14726 of 2010 stands dismissed.”

3. In deference to the aforesaid, and as acknowledged in paragraphs 2, 3, and 4 of the written statement, the petitioners and others were issued appointment letters *albeit* afresh, leading to filing of CWP-20584-2015, which came to be disposed of on 28.02.2017, relevant paras whereof read thus:

“Notice of motion was issued and eventually during the course of proceedings, an affidavit of the Director, Rural Development and Panchayats, Punjab has been filed in Court. A perusal of the said affidavit would reveal that fresh orders have been passed and Para-4 of the appointment letters issued on 20.10.2011 which read as “It is also clarified that this appointment letter is being given to you afresh and this has no concern and connection with any previous service period. Therefore, any arrear/seniority claim of the any period



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will not be made by you” in place thereof, “ you are again reinstated into services from the date of removing you from the services. According to the present existing rules/instructions, the appropriate benefits will be payable to you from the date of removing you from the service, up to again joining into service”, may be read over.

In view of the fact that the State has decided to reinstate them in service from the date when they were removed as per the affidavit filed and it has been decided that appropriate benefits would be payable from date of removing upto the date of joining, this writ petition is rendered infructuous qua nine of the twelve petitioners. Three petitioners, who have not been given the relief as sought by them, are given liberty to challenge the order dated 27.01.2017 by which relief has been denied.

However, while disposing of this writ petition, it is made clear that the consequential relief/appropriate benefits would be released to the petitioners within a period of three months from the date of passing of this order.

With the above direction, the instant writ petition stands allowed, accordingly.

No order as to costs.”

4. The petitioners are here to challenge the said order dated 27.01.2017 which noticeably does not reveal any reason for giving effect to their appointments on fresh basis, which is even otherwise, flawed inasmuch as, once it was on the basis of the direction of this Court in the previous *lis* that they came to be examined by the medical board, which, as a matter of fact, found them to be having disability to the extent of 40% by virtue of which the objection regarding the previous certificates primarily being obtained from private practitioners not only paled into insignificance, rather stood re-affirmed. The appointment as such would have to relate back to initial date, as was done with regard to the others,



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ergo the treatment meted out to them is incognizable being in teeth of **E.P.Royappa vs. State of T.N.**¹, wherein Hon'ble the Supreme Court eloquently held that the basic principle which informs both Articles 14 and 16 of the Constitution of India is equality and inhibition against discrimination. From a positivistic point of view, equality is antithetic to arbitrariness.

5. On a conspectus evaluation of the matter and as a fallout thereof, the present petition is allowed. The petitioners are held entitled to the same benefits as granted to the others.

07.01.2025
parveen kumar

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

¹ (1974) 4 SCC 3