

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

CWP No. 20260 of 2015
Date of decision: 23.09.2015

Kashmir Singh

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Sunny Singla, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks a writ of mandamus for grant of pension and other pensionary benefits as per instructions dated 19.11.2014 (Annexure P-8) on the ground that he is suffering from physical disability and is entitled to the benefits in view of the judgment of this Court in ***CWP No. 7233 of 2010, Bhupinder Singh vs. State of Punjab and others***, decided on 25.05.2011 (Annexure P-5) by enhancing his retirement age from 58 years to 60 years.

It is the case of the petitioner that he was working as a Sub Divisional Engineer with respondents and during his service, had applied for the enhancement of his retirement age till 60 years on 22.02.2011 (Annexure P-4). However, on account of no action being taken, he retired on 31.05.2011 at the age of 58 years. In the meantime, the judgment in ***Bhupinder Singh's case (supra)*** was delivered, which has been upheld in LPA No. 1719 of 2011 on 25.09.2012 and further by the Apex Court in Civil Appeal No. 8855 of 2014 on 16.09.2014. The petitioner had also filed another representation on 06.02.2015 (Annexure P-9) for fixing his claim

for pension as per above mentioned judgments and instructions. The petitioner thus submits that he would be satisfied if the said representation is decided by respondent no. 2 within a time bound frame.

This Court in ***CWP No. 3974 of 2012, Harbhajan Singh vs. State of Punjab and others***, decided on 18.09.2015, noticed that in the case of employees suffering from physical disabilities, the State was granting financial benefits to some and denying to others and accordingly directed that it is not permissible to take two different stands and deny the relief in one case and grant the benefit to another as it would be violative of Article 14 of the Constitution of India. Relevant observations read thus:-

“Counsel for the petitioner has further brought to the notice of this Court that in similarly situated cases, the Principal Secretary has also recalled his earlier order dated 15.04.2013 and granted all financial benefits to one Jarnail Singh and Kulwant Kaur, who retired on 31.03.2012 and 31.08.2012 on attaining the age of superannuation of 58 years vide order dated 13.03.2015. The issue was discussed threadbare and the said benefit was given. Similarly, one Surinder Kaur was granted the similar benefit by the Director, Public Instructions (S.E.) on 13.07.2015.

Thus, it is apparent that the State is taking two different stands and denying the relief in one case and while granting the benefit in another, which is not permissible and is violative of Article 14 of the Constitution of India.

Resultantly, the present writ petition is allowed and order dated 21.07.2015 (Annexure R-1) is quashed and the respondents are directed to grant the petitioner all financial benefits from 01.05.2012 to 30.04.2014. Since the petitioner has already been granted pension, the necessary adjustments will be made for the amounts which the petitioner has already received during this

period. The State shall ensure that in similarly situated cases, benefits are not denied to such handicapped employees as the issue stands conclusively decided.”

In view of the above, this Court does not feel necessary to call upon the respondents to file reply.

Accordingly, keeping in view the above controversy, this writ petition is disposed of with a direction to respondent no. 2 to take a decision on the representation dated 06.02.2015 (Annexure P-9) within a period of 3 months from the date of receipt of certified copy of the order, keeping in view the observations made in *Bhupinder Singh's case and Harbhajan Singh's case (supra)*. Needless to say that in case the relief is to be denied, the order should contain reasons.

23.09.2015
shivani

(G.S. SANDHAWALIA)
JUDGE