

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

CWP No.24103 of 2014

Date of decision:06.01.2015

Nachhattar Singh

.. Petitioner

Vs.

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Ashwani Talwar, Advocate with
Ms. Sanamjeet Kaur, Advocate for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

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TEJINDER SINGH DHINDSA, J.

Joint written statement on behalf of respondents No.2 to 5 along with Annexures R-1 and R-2 has been filed in Court today and the same is taken on record. Complete copy has been furnished to the counsel for the petitioner.

With the consent of the counsel for the parties, writ petition is taken up for final disposal today itself.

The petitioner whose date of birth is 02.01.1956 was serving on the post of Junior Engineer under the Haryana State Irrigation Department. He is stated to be suffering from a permanent physical disability element of 80%. The State Govt. had issued instructions dated 21.04.2008 (Annexure P-3) regarding extension in service to physically disabled employees for a period of two years beyond the normal age of superannuation of 58 years.

Case set up on behalf of the petitioner is that an application seeking extension on the strength of instructions dated 21.04.2008 on account of his physical disability had been submitted in the year 2013 itself. Such application was stated to have been supported by a certificate dated 07.07.2004 (Annexure P-1) issued by a Board of Doctors headed by the Civil Surgeon, Ambala.

It has gone uncontroverted that as per instructions dated 21.04.2008 (Annexure P-3) to seek benefit of extension beyond 58 years, the Medical Board, PGIMS, Rohtak was designated to be the Medical Board for the State and the Director of such institution was to head the Board of Doctors and to certify the disability of an employee.

Concededly, the instructions dated 21.04.2008 (Annexure P-3) were not complied with strictly inasmuch as the application seeking extension in service submitted by the petitioner in the year 2013 was not supported by the requisite certificate issued by the designated authority as per instructions dated 21.04.2008.

Under such circumstances, the petitioner stood retired upon having attained the age of superannuation on 31.01.2014. Apparently, the petitioner post retirement submitted an application dated 18.03.2014 at Annexure P-7 taking a stand that he was not aware about the latest government instructions and the requirement of getting medical certificate from the State Medical Board, PGIMS, Rohtak.

In the response filed on behalf of the State today in Court, a stand has been taken that such request seeking extension in service has been rejected on the ground that the petitioner already stood retired on 31.01.2014.

On 26.11.2014 when this writ petition came up for preliminary hearing, while issuing notice of motion, interim directions were issued to the respondent-authorities to have the petitioner examined by the duly designated Medical Board, PGIMS, Rohtak so as to assess the petitioner's disability element.

In purported compliance of the interim directions, a certificate dated 19.12.2014 from the Board of Doctors headed by the Director of the Institute stands appended along with the written statement and in terms of which the permanent physical disability of the petitioner has been assessed to be 80%.

Under such circumstances, this Court is of the considered view that the petitioner is entitled to the benefit of extension in service for a period of two years beyond the normal age of superannuation in the light of instructions dated 21.04.2008 (Annexure P-3) issued by the State Government.

The writ petition is accordingly allowed. The petitioner is held entitled to continue in service by grant of benefit of extension in service for a period of two years beyond 31.01.2014 based on his physical disability as assessed by the competent authority in the light of certificate dated 19.12.2014 from the Board of Doctors headed by the Director, PGIMS, Rohtak.

The necessary orders as regards grant of extension in service for a period of two years beyond 31.01.2014 to the petitioner be issued forthwith.

At this stage, the stand of the learned counsel appearing for the petitioner is being noticed and who has fairly stated that the petitioner

would be forgoing his claim for salary for the period that he has not worked during such period of extension that has been granted under the orders of this Court.

Petition is allowed in the aforesaid terms.

06.01.2015

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**