

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

**CWP No.24930 of 2015
Date of decision : 30.11.2015**

Kamal Dev Kalia

....Petitioner

Versus

State of Punjab & ors.

....Respondents

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

Present: Mr. Vishal Rattan, Advocate and
Mr. S.K.Rattan, Advocate
for the petitioner.

G.S.Sandhawalia, J. (Oral)

The petitioner seeks writ of mandamus for grant of pension and other pensionary benefits as per instructions dated 19.11.2014 (Annexure P-9) on the ground that the petitioner was appointed as officiating clerk being handicapped person on 05.12.1978.

The benefits are sought in view of the order passed by this Court in **CWP No.7233 of 2010** titled as **Bhupinder Singh vs. State of Punjab and ors., decided on 25.05.2011** (Annexure P-4) and the plea taken is that his retirement age is enhanced from 58 to 60 years.

It is the case of the petitioner that he worked as Senior Assistant with the respondents and during his service, had applied for enhancement of his retirement age on 03.12.2012, 01.01.2013 & 04.03.2013 (Annexures P-6 to P-8) on the strength of the judgment in *Bhupinder Singh's* case (supra), 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 (Annexure P-5). However, on account of no action being taken, he retired from the office of respondent No.3 on 31.05.2013. The petitioner had also served a legal notice dated 21.08.2015 (Annexure P-10) for his claim for pension as per the above mentioned judgments and instructions. Learned counsel for the petitioners thus, submits that he would be satisfied if the said legal notice dated 21.08.2015 is decided by respondent No.3 in 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 (Annexure P-11), 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.3 to take a decision on the legal notice dated 21.08.2015 (Annexure P-10) 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)*. The necessary benefit be given within a period of two months thereafter. Needless to say that in case the relief is to be denied, the order should contain reasons.

30.11.2015
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(G.S. SANDHAWALIA)
JUDGE