

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

**C.W.P. No.4380 of 2014 (O&M)
Date of Decision : 23.03.2015**

Jaipal Jangra

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Kuldeep Khandelwal, Advocate
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl.A.G., Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the action of the respondents in not allowing him to continue in service till the age of 60 years.

It is not disputed that by letter dated 02.11.1988 the Government had decided to extend the service of physically handicapped persons by 2 years. However, at that time two conditions were imposed. First that the person should have been blind at the time of entry into service and second that he should have been more than 30 years of age when he was appointed. Thereafter by letter dated 18.03.1996 (Annexure R-1) both the

conditions were withdrawn and it was decided that the normal age of retirement of blind employees would be 60 years. It is against this backdrop of rules that the petitioner is claiming the present relief. The petitioner was appointed as a Tracer on 24.08.1982 and was declared blind on 17.10.2011. His normal date of retirement was 28.02.2014 and he applied for extension on 03.02.2014 praying that he may be referred to the Medical Board constituted by the Government so that report regarding his medical condition could be obtained. However, no action had been taken thereon. Thereafter he filed the writ petition bearing CWP No.2802 of 2014 for seeking extension of service period beyond 58 years which was disposed of on 17.02.2014 in the following terms:-

“Petitioner has approached this Court impugning the action of the respondents, vide which extension in service beyond the age of 58 years to the petitioner, who is 100% handicapped, has not been decided till date, although he is to retire on 28.02.2014.

Counsel contends that the claim of the petitioner is covered in his favour by the instructions dated 31.01.2006, which has been further clarified vide instructions dated 21.04.2008 (Annexure P-1). Counsel has placed reliance upon the handicapped certificate issued by the All India Institute of Medical Sciences, New Delhi dated 17.10.2011 (Annexure P-2), which shows him to be visually handicapped by 100%. The instructions dated 18.03.1996 on which reliance has been placed by the Superintending Engineer, Hisar Circle, PWD (B&R) Branch, Hisar, as has been conveyed vide order dated 13.01.2014 (Annexure P-3), would not be applicable to the claim of the petitioner. He contends that no response to the communication dated 13.01.2014 (Annexure P-3) has been

sent by the Executive Engineer, Provincial Division No.1, PWD B&R Br., Hisar-respondent No.4. Since the petitioner is to retire on 28.02.2014, a direction may be issued to the respondents to finalise his claim with regard to extension in service beyond the age of 58 years at an early date.

In the light of the above facts and without going into the merit of the case or commenting thereon, the present writ petition is disposed of with a direction to respondent Nos.2 to 4 to finalise the case of the petitioner with regard to extension in service beyond the age of 58 years as he is 100% visually handicapped, within a period of ten days from today. Decision so taken be conveyed to the petitioner forthwith.

Copy of the order be given dasti to the counsel for the petitioner under the signatures of the Special Secretary of this Court.”

It is thereafter that the impugned orders have been passed rejecting claim of the petitioner. The only reason given for rejecting his claim is that being 100% blind he would not be able to do the job of Tracer. Thereafter the petitioner filed the present writ petition.

In the written statement, apart from the above mentioned reason two more reasons have been given. One is the complete misreading of the letter dated 18.03.1996 (Annexure R-1) since it has been sought to be stated that he was not granted extension because he was not 30 years plus at the time of appointment and was not blind at that time. In my opinion, this is an attempt to mislead this Court. The second reason taken is that he did not apply for medical examination from the Medical Board of P.G.I.M.S., Rohtak which fact is also false in lieu of letter (Annexure P-6). In the circumstances, apart from deciding this case I deem it appropriate to issue

notice to Sh. V.G. Machra, Executive Engineer, Provincial Division No.1, PWD (B&R) Branch, Hisar who had signed the reply so that he would appear before this Court to explain why these two averments were made.

Ordered accordingly. Let him appear before this Court on 27.04.2015. Learned Additional Advocate General is directed to ensure his presence.

Coming to the merits of the case, in my opinion, the reason given in the impugned orders is completely beyond the purview of the officer-respondent No.3 since in the instructions the age of physically handicapped persons including the blind persons has been increased and there is no requirement that the employee should be able to do the job. It cannot be lost light of that these instructions are beneficial measures to ameliorate the condition of physically handicapped employees and when the Government has itself not added any caveat, it is not permissible for the subordinate officers to add to the instructions by giving their own perverse interpretation.

Resultantly, the petition is allowed and the impugned orders are set aside. The Director, PGIMS, Rohtak is directed to constitute a Medical Board to examine the medical condition of the petitioner and the petitioner is directed to appear before the Medical Board of P.G.I.M.S., Rohtak on 08.04.2015. In case the petitioner is found eligible to fulfil the parameters of being blind, he would be allowed to re-join and continue till 28.02.2016. Considering the way in which this person has been treated, I do not deem it appropriate to deny him all consequential benefits. Accordingly, if the petitioner is cleared for extension by the Medical Board, the respondents are

directed to release his salary and allowances on or before 30.04.2015.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 23, 2015

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**(AJAY TEWARI)
JUDGE**