

***CWP No. 18430 of 2015***

**242**

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

***CWP No. 18430 of 2015***  
***Date of Decision: 22.07.2016***

**GIAN KAUR**

***... Petitioner.***

**VS.**

**STATE OF PUNJAB & ANOTHER**

***..Respondents.***

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Arvinder Singh, Advocate,  
for the petitioner.

Ms. Vandana Malhotra, Addl. A.G., Punjab.

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1. *Whether the Reporters of local newspaper may be allowed to see the judgment?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest?*

**KULDIP SINGH (J.)**

Petitioner-Gian Kaur, who is 55 % Orthopedically handicapped from upper and lower limb, has filed this writ petition on 31.08.2015 seeking issuance of writ of mandamus directing the respondents to grant the retiral benefits and other consequential benefits as well as interest on the delayed payment, by considering her age of retirement as 60 years instead of 58 years in view of the judgment dated 25.05.2011 passed by this Court in CWP No. 7233 of 2010, titled as Bhupinder Singh Vs. State of Punjab (Annexure P-4) and the law laid down by the Apex Court in a case titled as K.I. Shepherd and others Vs. Union of India and others J.T. 1987 (3) 600.

The petitioner has retired as Superintendent Grade-II on attaining the age of superannuation on 30.06.2010. As per certificate dated 04.03.1998 issued by the Civil Surgeon, Ludhiana, the petitioner was declared 55% orthopedically handicapped from the right upper and right lower limb.

After the retirement, the petitioner filed the representation dated 29.08.2010 to

***CWP No. 18430 of 2015***

respondent No. 2 seeking extension of two years. As no action was taken on her said representation, she sent a reminder on 15.12.2010. After the decision in Bhupinder Singh's case (Supra) and after it being affirmed by the Apex Court, the petitioner has filed the present petition.

In the reply submitted by the State, the state has taken the stand that the petitioner is not entitled to the retirement at the age of 60 years. It was also stated that the petitioner did not make any representation for extension of her service from 58 years to 60 years. After the retirement, she had made a representation which is not feasible in the present case.

I have heard learned counsel for the parties.

Admittedly, the petitioner had retired from service on 30.06.2010 and it is only after her retirement she has made representations to the Government which were not replied at all. Now, in August 2015, the petitioner has approached this Court by way of this writ petition.

Learned counsel for the petitioner contended that the petitioner had approached this Court after the decision by this Court in Bhupinder Singh's case (Supra) which was affirmed by the Apex Court in the year 2014 in Civil Appeal No. 8855 of 2014 titled as State of Punjab and others Vs. Bhupinder Singh (Annexure P-5). The reliance has also been placed on another judgment dated 14.07.2011 passed in CWP No. 10706 of 2011 titled as Tilak Raj Vs. State of Punjab and others (Annexure P-6).

The perusal of the aforementioned authorities show that Bhupinder Singh had approached this Court before attaining the age of 60 years and the circumstances of the case of Tilak Raj are also similar. When the present petitioner approached this Court, she had already crossed the age of 60 years. The mere fact that the petition filed by Bhupinder Singh was pending for

***CWP No. 18430 of 2015***

decision before this Court and later before the Apex Court, is no ground to wait for filing the present writ petition. If the petitioner has to claim some benefit under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, followed by subsequent circular for extension of the age, she should have approached this Court immediately when she retired from service. In the case of loco-motor disability, the Government while granting extension, is required to conduct medical fitness test to see whether the said employee is medically fit or not for extension in service. Since the petition was filed after the lapse of five years from the date of her retirement, therefore, this Court does not find it a fit case where the petitioner should be granted benefit of two years extension in service.

Accordingly, the petition is dismissed.

**July 22, 2016**

Suresh Kumar

**[ KULDIP SINGH ]  
JUDGE**