

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18297 of 2016 (O&M)
Date of decision : September 29, 2016

Amrit Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Shiv Charan Bhola, Advocate for the petitioner.

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. (ORAL)

Petitioner, who is physically challenged, was appointed as Social Studies Mistress on adhoc basis on 18.04.1976 with Punjab Education Department. Thereafter, she was appointed as Punjabi Lecturer in the year 2000 under the physically handicapped quota and retired from service on 28.02.2003, after attaining the age of superannuation at the age of 58 years. Petitioner was suffering from severe post polio paralysis affecting her right lower limb having more than 80% permanent disability. The Government issued Notification dated 23.10.1998, notifying the Act known as "Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, wherein the meaning of 'locomotor disability' was given. Vide Circular dated 16.02.1996 (Annexure P-2), the Government raised the age of retirement of blind State Government employees from 58 years to 60 years, subject to their being declared physically and mentally fit after the age of 58 years by the concerned Civil Surgeon.

According to the petitioner, one of the physically challenged Government employee filed CWP No.7233 of 2010 titled as “***Bhupinder Singh vs State of Punjab and others***”, claiming that he should be retired at the age of 60 years. The said writ petition was decided in his favour vide judgment dated 25.05.2011 (Annexure P-4). The LPA filed against the said judgment was dismissed by the Division Bench of this Court on 25.09.2012 (Annexure P-5). The State went in SLP before Hon'ble the Supreme Court, which was dismissed on 16.09.2014 (Annexure P-6). Therefore, the petitioner claims that he should have been retired at the age of 60 years and she, accordingly, presses for treating her retirement at the age of 60 years and allowing all the benefits, like salary, seniority, gratuity, leave encashment etc.

I have heard learned counsel for the petitioner and have also carefully gone through the case file.

In this case, the petitioner retired from service on 28.02.2003. Petitioner claims benefits of the judgment passed in ***Bhupinder Singh's case (supra)***, which was affirmed in SLP by Hon'ble the Apex Court vide order dated 16.09.2014 (Annexure P-6). Petitioner also seeks benefits of the Punjab State Government Circular dated 16.02.1996 (Annexure P-2), extending the retirement age to 60 years of the person with disability under Section 33 of said Disability Act of 1995.

A perusal of ***Bhupinder Singh's case (supra)*** shows that in the said case, Bhupinder Singh for claiming the benefits of said Disability Act of 1995, filed the writ petition before his retirement at the age of 58 years. He was, accordingly, granted the benefits.

Petitioner retired from service on 28.02.2003. For about 16½ years, she remained silent and now, she has come to this Court, claiming that she deemed to have been retired at the age of 60 years and, accordingly, claims salary for the said period along with seniority, revised pay, gratuity, leave encashment etc.

Learned counsel for the petitioner states the the petitioner has also issued Legal Notice dated 26.10.2015 (Annexure P-12) to the respondents and claims that the respondents should be directed to decide the said Legal Notice.

I am of the view that the petitioner did not work till the age of 60 years. She retired from service at the age of 58 years, which she accepted. The petitioner did not approach this Court before her retirement for seeking benefits of the said Disability Act of 1995. Now, after 16½ years her plea is barred by delay and latches. Secondly, she did not work on the said post for two years i.e. from 58 years to 60 years at the age of 60 years. Therefore, she is not entitled for salary, seniority, revised pay, gratuity, leave encashment etc.

Consequently, I do not find any merit in the present writ petition. As such, the same is dismissed.

(KULDIP SINGH)
JUDGE

September 29, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes