

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

Civil Writ Petition No.2181 of 2016

Date of decision: 3.2.2016

Gulshan Kumar

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.J.S.Maani pur, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

1. The solitary question raised by Mr.Maani pur in this case is an interesting one. His client is a person with disability suffered to the extent of 52% handicap. He is entitled to 2 years of service beyond superannuation under the policy instructions dated 19.11.2014 issued by the Punjab Government. The employees in the State of Punjab get extension of one year each at a time with a maximum of 2 years following amendments carried out in rule 3.26 of the PCS Rules, Volume-I, Part-I. However, extension in service is different from retention in service. If the policy circular for physically handicapped category is applied to the petitioner, all incidental consequences of service will follow including right to promotion etc. which rights may not be available to others seeking extension in service

beyond retirement. It is urged that the petitioner has a right under both the instructions to earn 4 years of service beyond superannuation by clubbing of the two special concessions. This order expresses no opinion on the argument as a matter of law.

2. Mr.J.S.Maani pur submits that instead of issuing notice of motion to the State which might delay the matter even when time is of the essence and brooks no delay then a direction should go to the decision maker in the respondents to consider and decide the representation filed by the petitioner in the respondent department on 23.11.2015, a copy of which is placed at Annexure P-5.

3. The request is found fair and reasonable and if allowed would save much time only to know the view of the Administrator in the first instance on the contention of Mr.Maani pur noticed above and as further explained in the representation and in this petition.

4. Consequently, a direction is issued to the respondents to consider and decide the representation within a period of 30 days from the date of receipt of a certified copy of this order.

5. Needless to say that only when an order adverse to the interest of the petitioner is contemplated, then he would have a right of hearing and a corresponding right to receive an order in writing disclosing the process of reasoning in reaching the conclusions arrived at. In case the claim is found due under the instructions meant for physically handicapped persons read in the light of the decision rendered by this Court in CWP No.3974 of 2012;

Harbhajan Singh v. State of Punjab and others, [P-7] which stands upheld by the Supreme Court, then all the consequential benefits, i.e., recall

to service for the unexpired period of 2 years, arrears of full salary etc. would follow suit.

6. Learned counsel points out from the Division Bench decision that this Court had expressed hope that similar matters would be decided by the administration so as not to flood the dockets of this Court on the present kind of litigation when the field is traversed by precedents.

7. Such compliances as are necessary for an administrative order to be passed be made within the time fixed above including recall to service, in case the decision is in favour of the petitioner with all consequential benefits of salary etc.

8. With the above observations and directions, this petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

February 3, 2016

Paritosh Kumar