

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

CWP No.4467 of 2015

Date of decision: 12.12.2016

Chitranjan Pal

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. L.S. Virk, Addl. AG, Punjab
for the respondents -State.

Daya Chaudhary, J.

The petitioner is physically handicapped person and was appointed as Clerk on 20.07.1973. Thereafter, he was promoted as Treasury Officer on 27.11.2010 and ultimately, he retired from service on attaining the age of superannuation i.e., 58 years on 30.11.2010. The petitioner is claiming the benefit of instructions dated 16.02.1996, whereby, the retirement age of the handicapped person (blind) was raised from 58 years to 60 years. He has submitted a representation for extension of his age of retirement from 58 years to 60 years and not to retire him at the age of 58 years but still his age of retirement was not extended.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to extend the benefit of Circular dated 19.11.2014 (Annexure P-10) issued by the Government of Punjab, Department of

Personnel, PP-II Branch as the case of the petitioner was covered not only by the instructions but also by the judgment rendered by this Court in *CWP No.8107 of 2012* titled as *Harbans Singh vs. State of Punjab and others* decided on **05.02.2013**.

Learned counsel for the petitioner submits that the same controversy was there in *Bhupinder Singh vs. State of Punjab and others, CWP No.7233 of 2010* decided on **25.05.2011**, which has been upheld by the Division Bench of this Court in *LPA No.1719 of 2012* titled as *State of Punjab vs. Bhupinder Singh* decided on **25.09.2012**. Said judgment rendered in **Bhupinder Singh's case (supra)** was also relied upon in many cases like the petitioner and in all these cases, direction was issued to the respondents to consider the case in view of judgment rendered in **Bhupinder Singh's case (supra)**.

In response to notice of motion, reply has been filed by the State, which is on record.

Learned State counsel opposes the submissions made by learned counsel for the petitioner and submits that the petitioner retired on 30.11.2010 on completion of 58 years of age. Learned State counsel also submits that the judgment rendered in **Bhupinder Singh's case (supra)** is not applicable in the present case.

Replication to the written statement has been filed, which is on record.

Learned counsel for the petitioner submits that in spite of sending reminders, the representation of the petitioner was not considered and in spite of issuing direction, no action was taken and ultimately, the

petitioner was relieved from service on 30.11.2010 whereas his service was to continue till 30.11.2012. Learned counsel also submits that the written statement was filed contrary to judgment rendered by this Court in **Bhupinder Singh's case (supra)**, which was even upheld by Hon'ble the Apex Court.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the documents available on the file.

Admittedly, the petitioner was appointed as Clerk on 20.07.1973 and thereafter, he was promoted to the post of Treasury Officer on 27.11.2010. He was relieved from service on 30.11.2010 on attaining the age of superannuation i.e., 58 years.

Undisputedly, the petitioner was permanently disabled as he was having permanent physical impairment of left leg to 40%, which is clear from the disability certificate issued by the Civil Surgeon, Patiala on 19.04.1990. Subsequently, the age of physically handicapped persons (blind) was extended vide Circular dated 17.01.2001.

One Bhupinder Singh approached this Court by way of filing CWP No.7233 of 2010 for grant of benefit of extension of retirement age from 58 years to 60 years, which was allowed on 25.05.2011. Thereafter, the State of Punjab filed LPA No.1719 of 2012, which was dismissed by the LPA Bench on 25.09.2012. Even the SLP filed by the State of Punjab was also dismissed. In compliance of said judgment of Hon'ble the Apex Court, State of Punjab issued Circular dated 19.11.2014 extending the age of 60 years to Persons with Disabilities under Section 33 of the Persons with

Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 from 58 years. The claim of the petitioner was not considered in spite of giving representation by him. Thereafter, the petitioner received response to representation from Department of Finance (Finance Pension Policy and Coordination Branch) vide letter dated 11.12.2012 but still no action was taken.

Learned State counsel has not been able to convince this Court as to how the case of the petitioner is not squarely covered by the judgment rendered in **Bhupinder Singh's case (supra)** as the controversy in hand reached upto Hon'ble the Supreme Court and the judgment passed by this Court in **Bhupinder Singh's case (supra)** has attained finality.

Accordingly, the present writ petition is disposed of with a direction to the respondents to consider and decide the case of the petitioner in view of **Bhupinder Singh's case (supra)** within a period of two months from the date of receipt of certified copy of this order. In case, the petitioner is found to be entitled for the relief sought, the same be granted to him within a period of two months thereafter and in case, the petitioner is still aggrieved in any manner, he is at liberty to avail the appropriate remedy.

Disposed of accordingly.

12.12.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No