

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.1349 of 2015

DATE OF DECISION: November 03,2016

The Managing Director and others

...Petitioners

versus

Khariti Lal and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr.D.S.Nalwa, Advocate for the appellants.
Mr.Pankaj Jain, Advocate for the respondents.

SURYA KANT, J.

The respondent was found to be suffering from physical disability to the extent of 75% by the Medical Board constituted by PGMIS, Rohtak. His claim was required to be considered for extension in service beyond the age of 58 upto 60 years in terms of the mandate contained in Govt. Instructions dated 21.4.2008 which have been issued in deference to the legislative policy behind the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Despite the fact that the respondent continued to serve the appellants to their entire satisfaction till the age of 58 years, further extension for another two years was denied only on the basis of a letter dated 30.4.2013 sent by District Manager, HAFED at Ambala who mischievously used his 'personal knowledge' and informed the Managing Director that the respondent "....is not able to perform the official duties of HAFED". Concededly, no such adverse report was ever conveyed to the respondent.

There was never ever any adverse comment in the Annual Confidential Reports of the respondent that he was inefficient or incapable to perform duties. The Managing Director also, without applying his own mind, mechanically accepted the opinion of District Manager and declined to grant extension to the respondent who has unfortunately passed away on 13.2.2015.

Having heard learned counsel for the parties, we are satisfied that the learned Single Judge has rightly accepted the claim of the respondent (since deceased). The beneficial policy was required to be considered liberally to achieve the object for which it was formulated. The deceased respondent was concededly suffering from disability to the extent of 75% or more. There was no complaint against his capability or efficiency

till he reached the age of superannuation. It is not acceptable that he suddenly became incapable to perform the duties. The Managing Director on the basis of self-serving and one sided report of the District Manager declined to grant extension and defeated the very object for which the Policy was formulated.

We do not find any ground to interfere with the order under appeal. The appellants are directed to release all consequential benefits, including arrears of pay to the legal heirs of the respondents, to be paid from the date of his death and all terminal benefits for which he is entitled under the Rules.

(SURYA KANT)
JUDGE

November 03, 2016
KD

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No