

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

-.-

**C.W.P. No. 10543 of 2015
Date of decision: 20.09.2017**

Rajesh Katyal

....Petitioner

Vs.

State of Haryana & Ors.

....Respondents.

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. D.K. Tuteja, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Anurag Goyal, Advocate, for respondent Nos.3 & 4.

G.S.SANDHAWALIA, J. (Oral).

The petitioner seeks benefits under the provisions of Section 47 of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 for re-instatement and for quashing of order dated 11.02.2015 (Annexure P/2), 1995, whereby he was relieved from the services on the ground of being declared unfit for further services by the Special Medical Board while serving as a Lecturer with respondent No.4-Institute.

Vide order dated 03.03.2017 following directions were issued as under:-

“ The question for consideration in the present petition is whether the petitioner is entitled for alternative employment with reference to Section 47 of the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act or not.

It is learnt that the petitioner while working as Lecturer in Automobile Engineering Department, he was incapacitated to discharge the duties of the post of Lecturer. Thus, he was removed which is the subject matter. During the pendency of this litigation, the

petitioner has been taken back to duty on 16.09.2016 while asking the petitioner to discharge the duties of the post of Lecturer. When the petitioner was incapacitated to discharge the duties of the post of Lecturer, it was bounden duty of the competent authority to give him an alternative employment. In this regard, the concerned competent authority is directed to take a decision. If there is any hurdle, the petitioner be subjected to medical Board and then take a decision to accommodate in any of the post. Such a decision shall be placed on record before the next date of hearing.

List this matter on 05.04.2017.

The concerned respondent is directed to pay the salary of the petitioner to the post of Lecturer from September 2016 to this day as an interim measure. The same shall be paid within a period of four weeks.”

In pursuance of the said order the State has passed the order dated 25.04.2017 (Annexure R/1) whereby the Management of the Institute/Chairman will take necessary steps to consider the case of the petitioner firstly for some other alternative post with the same pay scale and service benefits. If it is not possible to adjust the employee against any such post, then he is to be kept on Supernumerary post for which the institute will send a proposal to the Department/Govt. for creation of a supernumerary post. The proposal was to be sent within four weeks or earlier and salary of the petitioner was to be released from 04.03.2017 onwards till final disposal of the matter.

Since, it is the case of Mr. Goel that the proposal has already been sent for creation of Supernumerary post as the petitioner is not in a position to perform any duties on account of handicapped. Accordingly,

keeping in view the said order the respondent-State shall act upon the said expeditiously. The needful be done within a period of three months.

Counsel for the petitioner points out that the petitioner has not been paid a salary from 26.09.2014, when he was relieved, which would be clear from the impugned order.

Keeping in view the benefits to be given under Section 47 of the Disability Act, the respondent-institute shall also pay the arrears from the said date till September 2016, after adjusting the amount already received on account of invalid pension. It will also be open to the respondent-institute to claim the said amount from the State in compliance of order dated 03.03.2017. Payment be made by the Institute within two months.

The writ petition is disposed of accordingly.

September 20, 2017
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No