

CWP No. 14853 of 2016 (O & M)

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

CWP No. 14853 of 2016 (O & M)

Date of decision: 27.09.2017

Dhan Singh

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. V.B. Aggarwal, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 12.07.2016 (Annexure P-3) whereby, he has been retired from the post of bus driver in Haryana Roadways, Karnal on account of disability acquired during service. The benefit of alternative job is accordingly sought and the quashing of the department instructions apart from the notification dated 27.06.2005 (Annexure P-5). The prayer qua the quashing of the notification was withdrawn before the Division Bench on 27.06.2016 and, therefore, only the prayer for alternative job is pressed.

A perusal of the order would go on to show that the petitioner was retired from the said post of driver in view of the fact that he had been found unfit for the job of driver on the basis of the report received from the Special Medical Board, PGI, Rohtak. The same is on the ground that the visual disability of the petitioner is 40% as per medical report dated 21.04.2016 (Annexure P-1).

It is not disputed that the petitioner had also filed a

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representation that a alternative job be provided as per physical capacity on 21.01.2016 (Annexure P-2). As per the impugned order itself, the petitioner had been offered the job of Chowkidar vide letter dated 21.06.2016. It is his case that the said letter was not served upon him and the impugned order was passed.

The respondents, in their reply have said that it is wrong that the letter was never received by the petitioner and that the petitioner received the letter on 22.06.2016 through the Inspector but he did not submit any application alongwith his affidavit in the office of respondent no. 3 for alternative job. The said letter has not been attached as mentioned since Annexure R-1 is only the request by the petitioner that he has 8 years of service left and, therefore, duty be assigned to him as per his physical capability. The petitioner had approached this Court immediately on 27.07.2016 after passing of the impugned order. Nothing has been brought to the notice of this Court that the Duty Inspector had recorded that he had served the said letter upon the petitioner whereby the alternate job was to be accepted by him by furnishing the necessary affidavit. Thus, this Court is of the opinion that the petitioner was not given adequate opportunity as such to accept the alternative job of Chowkidar and, therefore, he has approached this Court for the necessary relief.

Resultantly, impugned order dated 12.07.2016 (Annexure P-3) is quashed to the effect that the petitioner has been declined the necessary relief of the alternative job of appointment as Chowkidar. The petition is partly allowed to the extent that the respondents will offer the job of Chowkidar within a period of 4 weeks from today. The necessary adjustments will be made regarding the amounts of retiral benefits, if

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already received and the petitioner will refund the same in case he wants to accept the alternative job.

27.09.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No