

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23406 of 2015 (O&M)
Date of Decision:-30.05.2017.

Jagdish Kumar

.....Petitioner

Versus

Managing Director, Dakshin Haryana Bijli Vitran Nigam Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Sandeep Lather, Advocate for the petitioner.

Mr. Kuldeep Singh, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

CM-8103-CWP-2017

CM for placing on record affidavit on behalf of respondents is allowed subject to all just exceptions for the reasons stated in the application as well as affidavit.

CWP No.23406 of 2015

In the instant writ petition, petitioner has sought for quashing the order dated 21.8.2014 (Annexure P-8) issued by respondent No.2 by which his claim for extension of service from 58 to 60 years, has been rejected.

Learned counsel for the petitioner submitted that petitioner while he was in service as Assistant Lineman, he met with an accident and lost his eye vision to the extent of 100% physical disability. He has attained

age of superannuation and retired from service on 30.6.2014. Undisputedly, he has been extended all service benefits till date of attaining the age of superannuation and retirement from service. His grievance is relating to extension of service from 58 years to 60 years i.e. from 30.6.2014 to 30.6.2016. In this regard, petitioner is relying on Government Notification dated 28.3.2006 which provides for raising the age of retirement of the physically handicapped Government employees from 58 to 60 years. The same was amended on 21.4.2008. Reading of the above communications, it is crystal clear that an employee who is due for retirement and who intends to seek for extension of service from 58 years to 60 years, he is required to make necessary application and also obtain a disability certificate from the Medical Board of PGIMS Rohtak. In the present case, petitioner has attained age of superannuation and retired from service on 30.6.2014. Much after his retirement, he has submitted application for extension of service along with medical certificate in the month of July, 2014. When policy stipulates one must submit application and physical disability certificate before date of retirement. Since petitioner's request for extension beyond date of retirement, thus, petitioner is not entitled for extension of service, since the petitioner has not complied the instructions given in the communication dated 28.3.2006 read with 21.4.2008.

Accordingly, petitioner has not made out a case so as to interfere with the order dated 21.8.2014 (Annexure P-8).

Petition stands dismissed.

At this stage, learned counsel for the respondents submitted that Section 47 of the Disabilities Act, 1995 provides for extending certain benefits to a disabled person only to the extent of attaining age of

superannuation and not beyond age of retirement. In the present case, petitioner was disabled while he was in service in the year 2005 and he has been granted the benefit of promotion to the post of Lineman and he has attained age of superannuation on 30.6.2014. Therefore, insofar as extension of service beyond 58 years, petitioner has not made out a case in terms of the communication dated 28.3.2006 read with 21.4.2008.

Learned counsel for the petitioner submitted that in identical matter, respondents have considered claim of a similarly situated person. In this regard, he pointed out Annexure P-9. Petitioner has not placed any material to show that in Annexure P-9, the employee who has submitted his application was beyond the stipulated period as required under the communication dated 28.3.2006 read with 21.4.2008. Even assuming that by oversight or *bona fide* mistake, if the respondents have extended the benefit, still the petitioner is not entitled. He is bound by communication dated 28.3.2006 read with 21.4.2008 relating to extension of service from 58 to 60 years. Accordingly, petitioner's above contention of discrimination is hereby rejected.

(P.B. BAJANTHRI)
JUDGE

May 30, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.