

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 5947 of 2016
Date of Decision: May 22, 2017

Dharmveer Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Shalender Mohan, Advocate,
for the petitioner.

Mr. R.K. Doon, AAG, Haryana

P.B. Bajanthri, J. (Oral)

1. In the instant writ petition, petitioner has questioned order dated 30.12.2015 (Annexure P/13) by which proposal for retiring petitioner w.e.f. 31.03.2016 on attaining age of superannuation and retired from service (58 years). Further sought for direction that petitioner is entitled for two more years from 31.03.2016 to 31.03.2018 in view of State Government policy relating to raising the age of retirement of physical handicapped Government employees from 58 to 60 years (Annexure P/14).

2. Petitioner was appointed as a Constable and he has earned promotion to the post of Head Constable. In the year 2007, he met with an accident by which he was disabled to the extent of 70%. On 31.01.2006, State Government issued a policy relating to raising the age of retirement of the Physical Handicapped Government employees from 58 to 60 years by imposing certain conditions. One of the condition is that one must possess

the minimum degree of disability of 70% from 58 years to 60 years. Petitioner's claim has not been considered for the reasons that he was working in the Police Department and above policy dated 31.01.2006 is not applicable for the employees of Police Department. In this regard, there was correspondence among head of the Department of Police as well as Finance Department. On 29.05.2009, Financial Commissioner and Principal Secretary to Government Haryana, Home Department in its communication to the Director General of Police, Haryana has held as follows:-

“Therefore, you are advised that constable / police officer are exempted from the instructions issued by the General Administration Department vide letter No. 34/1/2006-4GSI dated 31.01.2006. The Ministerial staff and other office staff would, however, be governed by these instructions.”

3. In view of above decision by the Financial Commissioner and Principal Secretary to Government Haryana, Home Department, petitioner's grievance relating to extension of service from 58 to 60 years is required to be considered. Since petitioner is already discharging office work in the wireless wing and he has not been assigned any field / executive work so as to say his disability would come in the way of discharging the duties. In other words, nature of duties of the petitioner falls under ministerial staff and other staff. Policy dated 31.01.2006 specifically imposes condition “Group ‘A’ to Group ‘D’ employees who possess the minimum degree of disability of 70% from 58 years to 60 years”. Since petitioner is relying on disability certificate to the extent of 70% issued on 11.02.2009, therefore, he has to obtain separate physical handicapped certificate as on 31.03.2016, the date on which he completed 58 years.

4. Perusal of the record it is evident that petitioner has not obtained physical handicapped person certificate to the extent of 70% as on 31.03.2016. If petitioner obtained a certificate relating to 70% disability as on today, concerned respondent is hereby directed to re-examine the petitioner's claim for appointment and on extension service from prospective date till 31.03.2018. Petitioner is hereby directed to furnish application along with disability certificate to concerned respondent. If such representation and certificate of disability to the extent of 70% is produced, same shall be considered and pass appropriate order. If petitioner fulfills the conditions imposed in policy dated 31.01.2006, in that event petitioner be taken back to duty and continued his services till 31.03.2018. The above exercise shall be completed within a period of one month from the receipt of this order.

5. With the above observations, instant writ petition stands disposed of.

May 22, 2017
vkd

[P.B. Bajanthri]
Judge

Whether speaking / reasoned : Yes

Whether reportable : No