

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.112 of 2017 (O&M)

Date of Decision: January 24, 2017

Jai Narayan

.....Appellant

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Naresh Kaushik, Advocate, for the appellant.

Mr.Amar Vivek, Advocate, for respondent Nos.2 to 6.

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Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Amar Vivek, learned Additional Advocate General, Haryana, accepts notice on behalf of respondent Nos.2 to 6.

Let six copies of the paper book be handed-over to him during the course of day.

Respondent No.1 need not be served.

Heard learned counsel for the parties.

The appellant is working as Assistant Foreman in the respondent-Corporation. He was appointed on 05.05.1986. He attained the age of 58 years on 30.04.2015 and thus would have retired on superannuation. He however approached this Court claiming that he is physically disabled and his Orthopedic disability being more than 65%, he was entitled to two years' extension in service. His claims was turned down as the disability was less than 70%. The condition of 70% disability was set-aside by this Court in a decision relied upon by the appellant. Learned

Single Judge therefore granted ad-interim stay and the appellant was taken back in service and is continuing till date. The appellant will admittedly complete two years extension period on 30.04.2017. Learned Single Judge however vide order under appeal dated 12.01.2017 has dismissed his writ petition on a technical ground that the appellant in his application dated 16.03.2015 has sought only medical examination and not 'extension in service'.

We are unable to approve the reasoning given by learned Single Judge. The very purpose of appellant's application was to conduct his medical examination and if he is found disabled, to allow him to continue in service for a period of two years as per the decision dated 04.03.2015 (P-10) read with the Government policy (P-5). It further appears from the documents on record that the appellant did apply for extension in service in so many words. In this view of the matter and keeping in view the percentage of his disability, the appeal is allowed; the order passed by learned Single Judge is set-aside and the writ petition is disposed of with a direction to the authorities to allow the appellant to continue in service till 30.04.2017. Any pending claim regarding release of salary be also disposed of.

Let a copy of this order be given dasti to Mr.Amar Vivek, learned counsel for respondent Nos.2 to 6.

[SURYA KANT]
JUDGE

January 24, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned
Whether Reportable

:
:

Yes/No
Yes/No

CM No.223 of 2017 in
LPA No.112 of 2017

Jai Narayan - - - State of Haryana and others
 - - -

Present : Mr.Naresh Kaushik, Advocate,
 for the applicant-appellant.

* * *

For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and the documents (A-1 & A-2) are
taken on record.

CM stands disposed of.

(SURYA KANT)
JUDGE

January 24, 2017
mohinder

(SUDIP AHLUWALIA)
JUDGE