

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

LPA No.2045 of 2017 (O&M)

Date of Decision : 02.11.2017

Punjab Urban Planning & Development Authority

....Appellant

Versus

Swaran Singh Jawanda and others

....Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present: Mr.Rupinder Khosla, Sr. Advocate with
Mr. Sarvesh Malik, Advocate
for the appellant.

Ms.Vertika H.Singh, Advocate
for the caveator/respondent No.1.

MAHESH GROVER, J. (Oral)

This appeal by the Punjab Urban Planning and Development Authority (PUDA) (hereinafter known as 'the authority') has been filed with a delay of 119 days in filing and 38 days in refiling questioning the judgment of the learned Single Judge dated 10.03.2017.

The writ petitioner worked as a Sectional Officer (Civil) in Punjab Housing Development Board, Ludhiana and his last assignment was as Divisional Engineer(C-2) in the office of the Chief Administrator, Greater Ludhiana Area Development Authority. During his service he acquired disability in an accident resulting in amputation of right leg. The prescribed age of superannuation is 58 years but as per the circular dated 16.02.1996 issued by the

Government of Punjab as also a circular dated 17.02.2001 the benefit of an enhancement of retirement age from 58 to 60 years was given to visually impaired government employees. Some litigation ensued where a challenge was mounted saying that such a circular was discriminatory as it prohibited the benefit of enhanced retirement age to persons with other kinds of disabilities. This writ petition was allowed by this Court and the State of Punjab filed a Letters Patent Appeal against the same but with no success. Eventually the SLP was also dismissed with certain directions which we need not dilate any further but suffice it to say after the decision by the Hon'ble Supreme Court instructions were issued on 19.11.2014 (on record of the writ petition as Annexure P-7) under Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 (hereinafter known as 'the Disabilities Act') extending the benefit of enhanced retirement age from 58 years to 60 years to persons with all sort of disabilities. The writ petitioner then pressed his claim which was rejected by the authority on the ground that the service condition of the writ petitioner was governed by Punjab Housing Development Board Employees Service Regulations, 1995 prescribing the age of superannuation as 58 years from which there could be no deviation. In short, the applicability of the Disabilities Act was denied.

The writ court framed the following issues for its consideration :-

- i) Whether the provisions of Persons with Disabilities

(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is applicable to Punjab Urban Planning and Development Authority?

- ii) Whether the instructions dated 19.11.2014 (P-7) issued under Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 are applicable to Punjab Urban Planning and Development Authority?”

It then concluded that the Punjab Urban Development Authority would be covered by the Disabilities Act and accepted the writ petition which is now a cause of grievance to the appellant who questions the judgment on the same grounds as the ones which were raised before the learned Single Judge.

The learned Single Judge noticed the definitions of “Appropriate Government” under Section 2(a) and “Establishment” under Section 2(k) of the Disabilities Act. Reconciling these two provisions of the Disabilities Act he noticed that Section 17(1) of the Punjab Regional and Town Planning and Development Act, 1995 created the PUDA authority and it being a creation of the State very well fell within the meaning of the “Appropriate Government” and “Establishment”. For the purposes of reference Sections 17(1) of the Punjab Regional Town Planning and Development Act, 1995 and Sections 2(a) and 2k) of the Disabilities Act are extracted herebelow :

“17(1) With effect from such date as the State Government

may, by notification, specify in this behalf, the State Government shall establish for the purposes of this Act, an Authority to be known as the Punjab Urban Planning and Development Authority with headquarters at such place as the State government may specify.

(2) The Authority established under sub-section (1) shall be a body corporate as well as a local authority, by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both moveable and immovable, and to contract; and shall, by the said name, sue and be sued.

(3) The Authority established under sub-section (1) shall consist of the following members to be appointed by the State Government, namely :-

(i) a Chairman ;

(i-a) a Co-Chairman;

(ii) a Vice – Chairman ;

(iii) a Chief Administrator who shall be appointed from amongst the officers of the Government of Punjab having such qualifications and experience as may be prescribed ; and

(iv) not more than twelve and not less than six official and non-official members including the Secretaries to Government of Punjab holding the charge of Local Government and Town and Country Planning;

Provided that the number of non-official members

shall not, at any time exceed three.

(4) The Chief Minister, Minister-in-Charge of Housing and Urban Development and the Secretary to Government of Punjab, holding the charge of Housing and Urban Development shall, respectively, be the Chairman, Co-Chairman and the Vice- Chairman of the Authority.

Section 2 (a) of the Disabilities Act, 1995

" Appropriate Government" means,-

(i) In relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonment Act, 1924, the Central Government ;

(ii) In relation to a State Government or any establishment wholly or substantially financed by that Government, or any local authority., other than a Cantonment Board, the State Government;

(iii) In respect of the Central Co-ordination Committee and the Central Executive Committee, the Central Government;

(iv) In respect of the State Co-ordination Committee and the State Executive Committee, the State Government."

Section 2 (k)

“ 'Establishment' means a Corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 617 of 'the Companies Act, 1956 and includes Departments of a Government. ”

We have absolutely no reason to disagree with the findings of the learned Single Judge in this regard and having concluded so, as

a natural corollary thereof, it would flow that the provisions of the Disabilities Act would also be applicable to the PUDA as a consequence of which the intended benefits of the Disabilities Act would also flow to the employees of the PUDA Authority. We thus find no infirmity in the findings of the learned Single Judge, particularly when the appeal is barred by a delay of 119 days in filing and 38 days in re-filing.

Appeal dismissed.

(MAHESH GROVER)
JUDGE

02.11.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No