

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 252

RSA No. 4125 of 2014
Date of Decision: July 06, 2017

SATYAVIR SINGH

..... APPELLANT

VERSUS

STATE OF HARYANA & OTHERS

..... RESPONDENTS

...

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

...

PRESENT: - Mr. Mani Ram Verma, Advocate,
for the appellant.

Mr. Ram Tilak Redhu, DAG, Haryana.

. . .

JASPAL SINGH, J (ORAL)

1. By virtue of instant appeal has challenged the judgment and decree dated March 19, 2014 passed by learned Additional District Judge, Bhiwani whereby, judgment and decree dated September 17, 2013 passed by learned Civil Judge (Jr. Division), Bhiwani in decreeing the suit filed by the appellant to the effect that he is entitled for full pay and all other occurring benefits upto date of retirement and withholding the pay from January 01, 2008, be paid alongwith all occurring benefits within a period of three months from the date of decree with interest @ 6% per annum from the date of accrual till actual payment, was reversed. Consequently, the suit was dismissed.

2. The main controversy involved in the instant appeal is whether the disability certificate is required under Section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of rights and Full Participants) Act, 1995 (hereinafter referred to as 'Act'), is legal and valid.

3. Undisputably, during the pendency of suit before learned trial Court, appellant was physically as well as medically examined in order to determine the disease with which he has been suffering, from PGIMS, Rohtak and after examination of the appellant, a certificate (copy of which is available on record as Ex.P-4), was issued. But neither the percentage of the disability was specifically mentioned in the afore-said certificate nor that “Cerebro Vascular Accident” falls in the category “Loco Motor Disability” as enshrined in Section 2(i) of the Act. Subsequently, an application was moved before learned trial Court to get the disability assessed as well as to specifically opine whether “Cerebro Vascular Accident” is a Loco Motor disease but instead of referring the matter to PGIMS, Rohtak, which is a notified authority under the Rules of Government of Haryana, the matter was referred to Chief Medical Officer, Bhiwani, who constitute a medical board, which gave its opinion vide certificate dated February 09, 2011. The certificate dated February 09, 2011 cannot be equated with the certificate issued by PGIMS, Rohtak with regard to the disability.

4. Moreover, PGIMS, Rohtak has been notified, as issuing authority of the disability certificate under the provisions of afore-said Act and on this sole ground, that the disability certificate has not been issued by a notified authority under the law, the relief claimed by the appellant has been declined by lower Appellate Court, though, it was granted by learned trial Court. Due to the technical reasons or procedure, a party should not be made to suffer and this controversy can be finally set at rest and would stand

clinched, if a fresh report with regard to the percentage of the disability suffered by the appellant as well as whether the “Cerebro Vascular Accident” falls within category of “Loco Motor Disability”, is called from PGIMS, Rohtak. It would be in the interest of justice and fitness of things that appellant be examined a fresh to determine the afore-said aspects and then to decide the matter a fresh.

5. Thus, impugned judgment and decree dated March 19, 2014 passed by learned Additional District Judge, Bhiwani is set aside and lower Appellate Court is directed to get the appellant medically and physically examined from PGIMS, Rohtak, a notified authority with regard to the percentage of disability suffered by him as well as whether the Cerebro Vascular Accident falls in the category of Loco Motor Disability and then to decide the matter a fresh. Since the matter has already been considerably delayed, it would be expected that needful be done within a period of three months from the date of receipt of certified copy of this Order.

6. Appellant is directed to appear before PGIMS, Rohtak on 20.07.2017.

7. Disposed of.

JULY 06, 2017
SHAM

(JASPAL SINGH)
JUDGE

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No