

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.133 of 2018

Date of Decision: 09.01.2018

Hari Kishan

... Petitioner

Versus

The State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jagjeet Beniwal, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

1. For extension in service beyond 58 years the level of handicap must be beyond 75% for conferring the benefit for two years of extra service.

2. The petitioner has a hearing problem. The authority to assess disability rests with the PGIMS Rohtak. The Medical Board of PGIMS Rohtak has assessed the disability at 48.5% which is temporary in nature. The assessment was made on September 13, 2017. As per this medical report the petitioner has no right to avail service beyond age of superannuation.

3. The petitioner before this Court in the present petition relies strongly on the opinion of the Special Medical Board at PGIMER, Chandigarh which assessed hearing disability to the extent of 85% by certificate dated August 23, 2013. In 2016 the petitioner asserts that his disability was re-assessed at 100% by disability certificate on May 13, 2016

issued by the PGI Chandigarh with the opinion that the condition is not likely to improve and there is no need for further assessment.

4. This is not a medical dispute. It is a question of extension in service as an exception to Rule 3.26 (a) of the Punjab Civil Services Rules, Volume I, Part 1 as applicable to Haryana and presently service conditions including age of retirement is governed by the provisions of Rule 143 of the Haryana Civil Services (General) Rules, 2016 which rules came into force on July 19, 2016 making the Punjab Civil Service Rules inapplicable to Haryana Government employees. Since a question of extension in service is involved based on disability, the State of Haryana and its department in which the petitioner serves is bound by the decision of the Medical Board of PGIMS Rohtak. The medical opinion of the PGIMER, Chandigarh and the PGIMS Rohtak, with due respect, should not be seen to jar with each other. Neither have they to be reconciled in a service law dispute. Besides, it not the case that the Haryana Government called for a medical report from PGIMER, Chandigarh for assessing the hearing disability of the petitioner and is thus bound by the opinion. If rule or instructions require percentage of hearing disability to be assessed by the PGIMS, Rohtak for a Haryana Government employee, the opinion of the designated authority will prevail over all medical opinion, unless shown to be utterly perverse.

5. Accordingly, the petitioner has no demonstrable, vested or accrued right to continue in service beyond 58 years when his case does not fall squarely in the exception to the rule with hearing impairment recorded much less than 75%. More importantly, the opinion of the Medical Board at Rohtak is the latest evaluation by experts and confirms the present medical

position of the petitioner as to extent of disability. No fundamental right of the petitioner has been infringed if he is retired at 58 years.

6. I would, therefore, find no reason to intercede in this matter and issue a mandamus to the State to extend the services of the petitioner beyond the age of superannuation at 58 years.

7. For the foregoing reasons, this petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

09.01.2018
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Whether speaking/reasoned Yes

Whether reportable No