

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

**CWP No.25116 of 2016 (O&M)
Date of decision: 08.08.2018**

Balwant Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jagbir Malik, Advocate,
for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

Ritu Bahri, J.

This petition under Article 226 of the Constitution of India is for issuance of a writ in the nature of certiorari quashing the medical certificate dated 31.03.2016 (Annexure P-7) issued by the Medical Board constituted by Pandit Bhagwat Dayal Sharma Post Graduate Institute of Medical Sciences, Rohtak-respondent No.5, whereby his physical disability has been assessed as 63%.

The petitioner is seeking extension of service from the age of 58 to 60 years. Keeping in view that he is a physically handicapped employee and his disability has been assessed as 63%, he has been retired vide order dated 31.03.2016 on attaining the age of 58 years. Earlier, the petitioner had approached this Court by filing CWP No.11045 of 2016. Vide order dated 12.07.2016 (Annexure P-11), this Court had granted liberty to the petitioner to get a medical certificate from PGIMS, Chandigarh. Pursuant to the said

certificate dated 25.11.2016 (Annexure P-12), a perusal of which, shows that he was permanently disable to the extent of 85%. The petitioner has also filed a civil suit against PGIMS, Rohtak for giving him a wrong disability certificate.

The stand taken by the respondents, in their written statement, is that as per Govt. instructions dated 31.01.2006 (Annexure P-5) and 21.04.2008 (Annexure R-1), appropriate institute to give disability certificate in case of employees working in Haryana, is the Medical Board of PGIMS, Rohtak. Since, the petitioner has been issued a medical certificate dated 31.03.2016 (Annexure P-7) by the designated Medical Board of PGIMS, Rohtak, whereby his permanent physical disability has been assessed as 63%, he is not eligible to be given extension in service beyond 58 years as the case of the petitioner is not covered by the Government instructions. However, respondents are not disputing the disability certificate dated 25.11.2016 (Annexure P-12) issued by PGIMS, Chandigarh.

In a short reply filed on behalf of Pandit B.D. Sharma, University of Health Sciences, Rohtak-respondent No.5, it was stated that after medical examination, the Medical Board has assessed the disability of the petitioner to the extent of 63%.

In the present case, initially, the petitioner was appointed under the handicapped category as per medical certificate (Annexure P-3). As per this certificate, he was 70% handicapped in respect of left hand. This Court is of the view that disability, as per Annexure P-3, was permanent in nature and was not likely to reduce with the passage of time. Even as per medical certificate (Annexure P-4), the disability was due to multiple fracture,

infection and other diseased leading to deformities as well as dysfunction. There was loss of function, which was equivalent to lose the member limb of body. A perusal of certificates (Annexures P-3 and P-4) shows that 70% disability was not likely to reduce with the passage of time. Hence, the disability certificate dated 25.11.2016 (Annexure P-12) given by PGIMS, Chandigarh has to be referred for considering the case of petition for extension in service beyond the age of 58 years. Moreover, PGIMS, Rohtak, had issued the certificate dated 31.03.2016 (Annexure P-7) during the proceedings in a civil suit (Annexure P-6) filed by the petitioner. On this ground itself, the writ petition deserves to be allowed.

Resultantly, this petition is allowed and the respondents are directed to give all consequential benefits to the petitioner by treating him in service till the age of 60 years, within a period of four months from the date of receipt of certified copy of this order. Compliance report thereof be sent to this Court.

08.08.2018
ajp

(RITU BAHRI)
JUDGE

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