

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

**CWP No. 11745-2016
Date of decision : 14.01.2019**

Rajesh KumarPetitioner

versus

State of Haryana and others ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sansar Kundu, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana

Mr. Anil Chawla, Advocate for respondent Nos. 2.

RITU BAHRI, J. (Oral)

The present petition has been filed by the petitioner seeking issuance of writ in the nature of certiorari for setting aside order dated 22.03.2016 (P-11) whereby claim of the petitioner for grant of conveyance allowance (regarding handicapped employee) has been rejected.

On 02.06.2016, this Court passed the following order:-

“Learned counsel inter alia contends that respondent No. 2 wrongly rejected the claim of the petitioner on the ground that the petitioner is disabled due to PPRD (Lower Limb), as the instructions dated 10.09.1982 are very clear that a government employee who is more than 40% handicapped he is entitled for conveyance allowance. Thus, the petitioner who is 45% handicapped, is fully entitled for conveyance allowance.

Learned counsel for the petitioner has further submitted that only the rate of conveyance allowance have been revised by subsequent instructions (P-3 to P-7) and conditions with regard to the percentage is same.

Notice of motion for 20.07.2016.

On asking of the Court, Mr. Hitesh Pandit, Addl.A.G. Haryana accepts notice on behalf of the State. Learned counsel for the petitioner is directed to supply copy of the petition to the learned State counsel by today itself during the course of the day.

However, respondent No. 2 is directed to examine the case of the petitioner, in view of instructions and pass appropriate orders in accordance with law, before the next date of hearing informing the Court that whether petitioner is entitled for conveyance allowance.”

In compliance of the above said order, respondent No. 2 re-examined the case of the petitioner and again rejected vide order dated 30.01.2017 (R-2/1).

A bare perusal of order dated 30.01.2017 (R-2/1) shows that the claim of the petitioner has been rejected on the ground that the petitioner has been allotted the Government house within the premises of factory and thus is not to perform any journey between office and residence.

Reference at this stage can be made to instructions dated 19.07.2016 Annexure R-2/2) and Rule 22 (1) (ii) and 2 of the notification reads as under:-

22 (1) A Government employee working on regular basis, who is declared

(ii) orthopadically handicapped with a minimum of 40% permanent partial disability of either upper or lower limbs by the Head of Orthopaedics department of Government Civil Hospital: or

(2) No conveyance allowance shall be admissible to -

(i) one eyed (partially blind) Government employee or

(ii) those who covered under these Rules but have been provided with the facility of vehicle at Government expenses for journey between office and residence.

The above said Rule do not provide that if a Government house has been given to an employee in the premises, he is not entitled for conveyance allowance

Further in the impugned order dated 22.03.2016 (P-11), it is nowhere mentioned that the claim of the petitioner has been rejected on the ground that Government house has been given to him but it has been rejected on the ground that the petitioner is not entitled, as handicapped conveyance allowance is allowed to spinal deformity disabled employee above 40%. As per Annexure P-1, the petitioner has 45% permanent (physical impairment/visual impairment/speech and hearing impairment) in relation to his PRD lower limb.

In view of the above factual position, the writ petition is allowed and orders dated 22.03.2016 (P-11) and 30.01.2017 (R-2/1) are set aside. A direction is given to the respondents to release the conveyance allowance fixed from time to time, as per Rule 22 (1) (ii) to the petitioner from the date he has joined on 03.11.2006, keeping in view the instructions prevalent at that time. The arrears be restricted to a period of 38 months prior to filing of the writ petition.

January 14, 2019
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No