

228 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20236-2016 (O&M)
Date of decision-21.05.2019

Bhupinder Singh

...Petitioner

Vs.

The State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Sidhu, Advocate
for the petitioner(s).

Ms. Gunkirat Kaur, A.A.G., Punjab.

JITENDRA CHAUHAN, J.

Prayer in the instant petition is for issuance of a direction to the respondents to grant extension in service to the petitioner beyond the age of 60 years in view of the law laid down by this Court in CWP-25972-2015 titled as '*Dr. Jagjivan Singh Vs. State of Punjab and others*' on 03.08.2016 (Annexure P-8).

Learned counsel for the petitioner states that the petitioner joined the Department as Zileadar in June, 1982. He was promoted as Deputy Collector in November, 1996 and is working as such since then. The petitioner is physically disabled to the extent of 60% (Annexure P-1). He has been granted extension in service of two years i.e. from 58 years to 60 years being a physically handicapped person vide letter dated 09.12.2014 (Annexure P-3) and accordingly his date of retirement would be 30.09.2016.

On 03.08.2016 (Annexure P-8), this Court in Dr. Jagjivan Singh's case

(supra) held that the petitioner therein was entitled to extension of service upto the age of 62 years and the said benefit would not be confined to Class III and Class IV posts. Rather, the same would be applicable to all the employees. On the strength of the judgment so passed, the petitioner made a representation dated 23.09.2016 prayed for extension of service upto 62 years since the date of retirement of the petitioner according to Annexure P-3 was 30.09.2016, the petitioner approached this Court by way the instant petition.

It is further submitted that as per the circular dated 19.11.2014 (Annexure P-2) issued by the State Government, the retirement age of blind persons/employees was raised from 58 to 60 years in view of judgment rendered in '*Bhupinder Singh vs. State of Punjab and others, 2011(4) SCT 55*'. Earlier this benefit was confined only to the blind persons but subsequently, it was extended to all physically handicapped persons as defined under Section 2(i) of the Disability Act, 1995. Subsequently, a circular was also issued on 22.12.2014 (Annexure P-7) whereby the retirement age of physically handicapped persons was extended from 60 to 62 years but it was applicable only to Class IV employees. It is submitted that the benefit of disability cannot be confined only to Class-IV employees under the Disability Act, 1995.

Vide order dated 11.09.2014 (Annexure P-4), one Bhajan Chand, Lecturer in Music (Blind) has been given extension for one year in service beyond the age of 60 years.

Learned State counsel submits that the judgment rendered in Bhupinder Singh's case (supra) is not applicable to this case as in that case, the age of superannuation was extended from 58 to 60 years in view of

Section 33 of the Disability Act, 1995. Further the Government vide its letter dated 21.11.2014 clearly stated that the physically handicapped employees whose date of retirement/superannuation is already 60 years are not eligible for two years extension. Moreover, the extension in service cannot be claimed as a matter of right. Cites *State of Assam and another Vs. Basabta Kumar Dass etc., AIR 1973 SC 1252*.

Heard.

The petitioner being handicapped person had to retire on 30.09.2016 on attaining the age of 60 years. In ordinary course the age of retirement of Punjab Government employees is 58 years. However, vide a circular dated 08.10.2012, the employees were allowed extension of service beyond the age of superannuation from 58 years to 59 years in the first instance and then from 59 to 60 years. This benefit was available to group A, B and C employees on optional basis. The age of retirement of Class IV employees has throughout been 60 years and they are allowed extension from 60 years to 61 years and then from 61 years to 62 years.

The State of Punjab in pursuance of the judgment passed by this Court in Bhupinder Singh's case (supra) issued notification dated 19.11.2014 (Annexure P-2) thereby extending the age of retirement to 60 years for all categories of physically handicapped persons. Further, the State vide letter dated 21.11.2014 (Annexure R-1) clarified that the age of superannuation for physically handicapped employees is already 60 years pursuant to notification dated 19.11.2014 (Annexure P-2) and thus, further extension of two years cannot be granted to such persons. As regards the parity claimed by the petitioner with one Bhajan Chand who was granted extension in service for one year beyond 60 years, the same is misplaced as

the extension so granted stands withdrawn vide letter dated 14.10.2016 (Annexure R-2). Even otherwise, extension in service cannot be claimed as a matter of right. While considering a similar situation, Hon'ble the Supreme Court in Basabta Kumar's case (supra) held as under:-

“A government servant has no right to continue in service beyond the age of superannuation and if he is retained beyond that age, it is only in the exercise of the discretion of the Government.”

In view of the above, the present petition is hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

21.05.2019

ps-I

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No