

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

CWP No. 26481 of 2014.

Date of Decision: 15.01.2019.

Jatinder Singh Bajwa

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Arvinder Singh, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

JITENDRA CHAUHAN.J.

By way of present civil writ petition, the petitioner seeks issuance of directions to the respondents to consider the date of retirement of the petitioner as 28.02.2015 instead of 28.02.2013.

The petitioner was appointed as Sectional Officer on 03.04.1979 in the Irrigation Department. At present the petitioner is posted at Ranjit Sagar Dam, Store and Steel Sub-Division, Shahpurkandi Township. One Bhupinder Singh who was a Carpenter in Animal Husbandry department, met with an accident and lost his right forearm and was rendered handicapped, filed CWP No.7233 of 2013 impugning the circular dated 16.02.1996 and circular dated 17.01.2001 vide which the retirement age of blind government employees was raised from 58 years to 60 years, on the ground that the circular should apply on all other handicapped employees. This Court

vide judgment dated 25.05.2011 (Annexure P-1) held as under:-

“In my humble opinion the Circulars (Annexures P-2 & P-3) confining the benefit of enhancement of retirement age only to blind persons tends to discriminate between different categories of the persons suffering with disabilities. The benefit of Circular is thus required to be expanded and extended to all physically disabled persons as well. These Circulars are administrative in nature and the Govt. cannot discriminate by its executive or administrative action.

In view of the above, this petition is allowed. Respondent-State is directed to suitably modify the Circulars (Annexures P-2 & P-3) and extend the benefit of enhancement of age to all categories of disabled Govt. employees as specified under Section 2 (i) of the Disability Act in tune and spirit of the Act. The petitioner has been retired at the age of 58 years. It is more than one year that the petitioner has retired. I leave it to the wisdom of the State to re-induct the petitioner into service for the rest of period of retirement up to age of 60 years, however, petitioner shall be entitled to emoluments for extended period of retirement. He shall be deemed to have retired at the age of 60 years and will be entitled to all consequential benefits”

It is contended that as per ratio of the the aforesaid judgment, the retirement age of the handicapped employees was to be raised form 58 years to 60 years. The petitioner had suffered 55% permanent disability during service vide Disability Certificate

(Annexure P-3), therefore, he being similarly situated as Bhupinder Singh made a detailed representation dated 16.01.2012 (Annexure P-2) to the department that he too be given the same benefit on the basis of above said judgment. However, the respondents had declined the claim on the ground that LPA No.1719 of 2011 has been filed against the said judgment and order of Hon'ble the Single Judge had been stayed. The aforesaid LPA was dismissed by this Court on 25.09.2012. Further the matter has been upheld by Hon'ble the Supreme Court in Civil Appeal No.8855 of 2014. The petitioner again moved representation dated 07.11.2014 (Annexure P-10) but no action has been taken thereon. It is contended that in view of **Bhupinder Singh's case**, the retirement date of the petitioner deserves to be taken as 28.02.2015 and the period spent on extension deemed to be treated as regular service.

On the other hand, it is contended that the petitioner has already retired on 28.02.2015 after completing the age of 60 years and no further extension in service is admissible. The Government of Punjab vide instructions dated 21.11.2014 (Annexure P-15) has clarified that the blind and other handicapped employees of the State of Punjab whose age of retirement is already 60 years will not be given two years' extension. On the basis of said instructions, the claim of the petitioner is not admissible.

Heard.

Considering the fact that the controversy raised in the present civil writ petition has already been decided in **Bhupinder**.

Singh's case (supra) which has been upheld by Hon'ble the Apex Court, the present civil writ petition is allowed. The respondents are directed to treat the date of retirement of the petitioner as 28.02.2015 instead of 28.02.2013. The necessary benefits be given to the petitioner within a period of two months from the date of receipt of certified copy of the judgment.

15.01.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

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