

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

**CWP No.19845 of 2018
Date of decision:17.07.2019**

Rajender Parshad

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ajay Chaudhary, Advocate
for the petitioner.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

AMIT RAWAL J. (Oral)

Challenge in present writ petition is to the order dated 10.09.2013, (Annexure P-2), whereby, petitioner who has been appointed as Patwari in 1997, has unfortunately paralytic attack and as per disability certificate issued by the Medical Board, declared more than 70% disabled and in lieu thereof, Collector Rohtak retired him w.e.f. 17.5.2013 by taking into consideration Section 5.11, Volume-2, Part-I, of Civil Service Rules.

Learned counsel for the petitioner submitted that aforementioned order is totally in violation of Section 47 of Pension with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, therefore, order is not sustainable in the eyes of law. At the best, the petitioner could have been kept on the superannuating post.

Per contra, learned State counsel supported the impugned order and submitted that order of retirement is in consonance with aforementioned

provisions and there is no violation and therefore, petition deserves to be dismissed.

I have heard the learned counsel for the parties and appraised the paper book. The aforementioned Act was promulgated by the Legislature in 1995 and Section 47 of Act protected the rights of employees who unfortunately suffered disabilities on account of various ailments. The petitioner is stated to be 48 years of age and therefore, could not be retired in the manner and mode. The Collector, in my view, has not taken into consideration the aforementioned provisions of Act. The impugned order dated 10.09.2013, (Annexure P-2) is not sustainable and is hereby set aside with liberty to the respondents to take action in accordance with law by keeping in view the aforementioned provisions of Act.

Writ petition stands allowed in aforementioned terms.

This Court is sanguine of the fact that the aforementioned exercise must be undertaken within a period of two months from the date of receipt of certified copy of this order, failing which there shall be costs of Rs.25,000/- to be paid by the concerned officer to the petitioner.

(AMIT RAWAL)
JUDGE

July 17, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No