

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4004-2015 (O&M)
Date of Decision:-09.01.2019.

Mohinder Puri

.....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Kapil Kakkar, Advocate for the petitioner.

Mr. Ashok Singh Chaudhary, Advocate for the respondents.

ARUN MONGA, J. (Oral)

CM-56-CWP-2019

Order dated 24.12.2018 passed by Superintending Engineer, Operation Circle, Kurukshetra and letter dated 24.12.2018 sent to Director, Medical Board, PGIMS, Rohtak are taken on record as Annexures A-1 and A-2.

CM stands allowed subject to all just exceptions for the reasons stated therein.

CWP-4004-2015

1.) This is one case where a welfare state ought to have shown its humanitarian side but the conduct of the respondents has been appalling to say the least. This Court had heard the matter at length on 29.11.2018 and passed the following order:-

*“1. Learned counsel for the petitioner
contends that he has been denied the benefit of extension*

in service upto the age of 60 in violation of the instructions (Annexure P-4)dated 31.01.2006. He further states that it has been clearly laid therein that normal retirement age of disabled Group 'A' to Group 'D' employees who possess the minimum degree of disability of 70% be increased from 58 years to 60 years.

2. The above said instructions were later on clarified vide Circular dated 28.03.2006 wherein clarification was issued on the following two points:-

(a) Who would be the competent authority for the issue of a Medical Certificate?

(b) The time limit up to which the disability certificate would require to be submitted?

It was clarified that (a) medical board constituted under the Chairmanship of CMO of the district would be the competent authority to issue a medical certificate. As regards (b), it was clarified that any employee who submits papers even up to the date of retirement can seek advantage of the said instructions.

3. Learned counsel for the petitioner contends that the accident took place at Pehova and he suffered severe electric shock resulting in injuring of both upper limbs apart from suffering high degree burn injuries. In such an extreme medical emergency he was rushed to PGI, Chandigarh and the factum of having been treated in PGI, Chandigarh and the furnishing of medical certificate by PGI certifying the burn injuries and also the medical certificate of 78.8% impairment vide Annexure P-2 is not disputed. The learned counsel for respondent No.1 has not controverted the said factual back round.

4. Learned counsel for the petitioner contends that during the treatment the said impairment

further aggravated and increased to 83% as reflected from Annexure P-3 again issued by PGI, Chandigarh where he had been undergoing treatment. The said fact is also not disputed, the only ostensible ground of denial of the benefit to the petitioner is that he ought to have given the medical certificate from PGI, Rohtak. Concededly, the petitioner never underwent any treatment at PGI, Rohtak.

In this view of the matter, respondent no.1 is directed to pass a speaking orders keeping in view of the contention of the learned counsel for the petitioner noted hereinabove as also stated in the Writ petition on the basis of the medical certificate submitted by the PGI, Chandigarh, within a period of four weeks and the copy of the said order be placed on record of this Court, failing which, the M.D of the respondent No.1 is directed to be personally present in the Court for further proceedings.

Adjourned to 09.01.2019.”

2.) In the above said order it was made amply clear that the speaking order shall be passed on the basis of medical certificate submitted by PGI, Chandigarh. It was further directed that respondent No.1 through its Managing Director shall pass the speaking order, failing which, he was directed to be personally present in the Court. Learned counsel for the respondents states that instead of respondent No.1/Managing Director, the speaking order has been passed by respondent No.2 i.e. Superintending Engineer of UHBVN. The said order dated 24.12.2018 has been placed on record as Annexure A-1. No explanation has been given as to why the Managing Director did not pass the order as per the directions of this Court.

3.) The unrelenting callous attitude of the respondents continues to

be reflected even from the order passed by the Superintending Engineer, who, in utter disregard of the clear direction of this Court that the speaking order be passed based on the medical certificate issued by PGI, Chandigarh, has rejected the case of the petitioner on the ground that the medical certificate has not been issued by the PGI, Rohtak. Same is stated to be in violation of administrative instructions dated 14.07.2008 issued by the State of Haryana. The respondent No.2 has further stated that in view of the said instructions, the case of the petitioner has now been referred to PGI, Rohtak for issuance of disability certificate vide letter dated 24.12.2018 and on receipt of a response from PGI, Rohtak, the case of the petitioner would be considered.

4.) The stand taken by respondent No.2 is clearly in direct violation of the position explained in order dated 29.11.2018 passed by this Court, as already reproduced above. Learned counsel for the respondents argues that the petitioner failed to submit the certificate from PGI, Rohtak in time despite having been asked to do so, therefore, the respondents are fully justified in negating petitioner's claim. Such an argument is preposterous to say the least. As to how the petitioner who has lost 2 of his limbs, and his disability/impairment has aggravated in the meanwhile from 79% to 83%, is expected to crawl his way from Pehowa to Rohtak to get such a certificate. In the proceedings as well as the pleadings before this Court, the respondents have neither controverted the genuineness of the medical certificate issued by the PGI, Chandigarh nor the impairment suffered by the petitioner nor the fact that petitioner had suffered the same in course of discharging his duties. It is also the conceded case that the petitioner never underwent treatment at PGI, Rohtak which is about 4 hours from Pehowa

where the accident took place as against PGI, Chandigarh which is about 1 ½ hour as also the fact that PGI, Chandigarh is stated to be a super specialty hospital. Another deplorable aspect of the matter is that respondent No.2 has written a letter dated 24.12.2018 at this belated stage seeking medical certificate from the PGI, Rohtak, whereas, the petitioner had approached the respondents at first instance vide his representation dated 27.02.2015 as admitted in para 8 of the reply.

5.) In this view of the matter, order dated 24.12.2018 (Annexure A-1) passed by the Superintending Engineer does not stand the judicial scrutiny and is, accordingly, set aside. The respondents are directed to give the benefit of the Government Instructions dated 31.01.2006 (Annexure P-4) as adopted by the respondent-Nigam. Keeping in view the disability suffered by the petitioner, the respondents are directed to grant him the benefit of continuity of service till the age of 60 years along with all such consequential benefits within a period of 2 months from today failing which the petitioner shall be entitled to interest @ 9% per annum on the arrears of his salary and other consequential benefits. Keeping in view the conduct of the respondents, as also the needless litigation which the petitioner had to suffer at the hands of the respondents, respondents-Nigam is liable and is directed to pay litigation cost of ₹ 1,00,000/- to the petitioner.

6.) With the above observations and consequent directions, petition stands allowed.

(ARUN MONGA)
JUDGE

January 09, 2019.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes / No

Yes / No.