

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

CWP No.16965 of 2018

Date of Decision : 27.02.2020

Bhoop Singh

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Ram Niwas Sharma, Advocate
for the petitioner.

Mr.Shivendra Swaroop, AAG, Haryana.

...

TEJINDER SINGH DHINDSA, J.(ORAL)

In view of the order that this Court intends to pass, there would be no requirement of seeking a written response from the State of Haryana to the instant writ petition.

Petitioner seeks a Mandamus for directing the respondent authorities/competent authority to adjust him against a supernumerary post on the basis that he is suffering from Recurrent ischemic stroke with Diplegia as severing Dysarthria and his disability having been assessed to be 75%.

Briefly it may be noticed that petitioner was appointed as S.S.Master vide order dated 13.12.2004 under the Haryana Education Department. Such appointment was pursuant to a regular selection process that the petitioner had successfully negotiated. Apparently, during service petitioner has suffered a health condition as per disability certificate dated 05.07.2017 (Annexure P-9) issued by the Civil Surgeon, Panipat. Pursuant to a medical examination conducted

of the petitioner by a panel of doctors, petitioner has been found to be suffering from loco motor disability assessed at 75%.

Petitioner seeks protection under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 which reads as follows :-

“47. Non-discrimination in Government employment.-

(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that if an employee, after acquiring disability is not suitable for the post, he was holding can be shifted to some other post with the same pay scale and service benefits :

Provided further that if it is not possible to adjust the employee against any post he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.”

It is the assertion made by counsel that on account of his health condition and disability, he cannot discharge his official duties and the State Govt. is obligated to afford him the protection under Section 47 of the said Act. Counsel has further asserted that the

respondent authorities have acted arbitrarily in not having released salary to the petitioner for the last two years.

At this stage, a submission is made by counsel for the petitioner that he would be satisfied if the writ petition were to be disposed of with a direction to the concerned authority to examine the claim/grievance of the petitioner and to take a time bound decision.

Submission made by counsel is found to be just and reasonable.

In view of the above and without even ascertaining the correctness of the averments made in the petition, I deem it appropriate to dispose of the writ petition with a direction to respondent No.2 to consider the claim of the petitioner against the backdrop of a legal notice dated 23.03.2018 (Annexure P-11) and to take a final decision thereupon expeditiously and in any case within a period of eight weeks from the date of receipt of certified copy of the order.

Disposed of.

27.02.2020
dss

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No