

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.111

CWP-9986-2021 (O&M)
Date of decision : 20.5.2021

Harbans Singh

..... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. K.L. Arora, Advocate and
Ms. Urvashi Arora, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner has approached this Court by way of this writ petition directing respondent No.5 to constitute a State Medical Board for determining the combined disability percentage of the petitioner, because, according to the petitioner, his combined disability is to be calculated by adding the respective percentages of the disabilities suffered by him.

The petitioner is an employee of respondent No.3 and has been retired from service w.e.f. 31.1.2021 on achieving the age of superannuation i.e. 58 years. His grievance is that he has been superannuated earlier. He suffers from locomotor disability as well as hearing disability and persons with disabilities are entitled to remain in service till the age of 60 years. Thus, the order of retirement is illegal. That apart, the determination of combined disability as 38.6% is also illegal and thus, a direction needs to be issued to respondent No.5 to constitute a State Medical Board.

The petitioner had earlier approached this Court vide CWP-1274-2021, challenging order dated 4.1.2021, passed by the Commissioner, Municipal Corporation, Sahibzada Ajit Singh Nagar (Mohali), declining his request to continue in service till the age of 60 years being a disabled person. The same was disposed of vide order dated 28.1.2021, with a direction to

Chief Medical Officer, Sahibzada Ajit Singh Nagar (Mohali), to constitute a Medical Board for assessing the disability of the petitioner. A Medical Board was accordingly constituted and the petitioner was sent to Government Medical College & Hospital, Sector-32, Chandigarh for opinion. Opinion was accordingly sent to Senior Medical Officer, District Hospital, Sahibzada Ajit Singh Nagar (Mohali), on receipt of which, disability certificate dated 2.3.2021 (Annexures P-8 and P-9) were issued. Annexure P-8 is with respect to locomotor disability, which has been assessed as 34% and Annexure P-9 is with respect to hearing disability, which has been assessed as 7.5%. Combined disability has been assessed as 38.6% in accordance with assessment and certification guidelines based upon Gazette Notification dated 13.6.2001, issued by the Ministry of Social Justice & Empowerment in Government of India.

Learned counsel for the petitioner has submitted that combined disability assessed is erroneous and both disabilities should be added. Thus, calculated, the combined disability would be 41.5% and according to the Policy of the Government, employees with disability of 40% and above, are entitled to serve upto the age of 60 years.

The argument of learned counsel for the petitioner is not acceptable. A copy of the guidelines for assessment and certification of disability has been placed on record as Annexure P-10. Under the head 'multiple disabilities', it has been mentioned that a person suffers from multiple disabilities in case he has two or more of the disabilities mentioned therein. Locomotor disability as well as hearing impairment are mentioned therein. Further, it has been stated that the sum of various disabilities is as per guidelines 'using a telescopic sum formula'. The formula has

been given under the heading ‘guidelines for evaluation’ and the sum is $a + \frac{b(90 - a)}{90}$ It is also stated that ‘a’ is the higher score and ‘b’ is the lower score. Thus, for calculation of the combined disability, ‘a’ shall be the higher score by 34 and ‘b’ shall be the lower score of 7.5.

Thus, calculated, the combined disability works out 38.6%, which is precisely the figure mentioned in the disability certificate. Thus, it is evident that submission of leaned counsel for the petitioner is based on his own interpretation not supported by any guidelines.

For the aforementioned reasons, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

20.5.2021
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No