

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

CWP-6561 of 2022

Date of Decision: 30.03.2022

BHOOP SINGH

..... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Parth Goyal, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.

Prayer in this writ petition is for directing the respondents to consider the petitioner's claim for grant of extension in service for two years beyond the age of 58 years i.e. w.e.f. 01.04.2022 to 31.03.2024, in view of instructions dated 31.01.2006, Annexure P-14 .

Learned counsel for the petitioner submits that the petitioner was selected and appointed as S.S. Master on regular basis on 15.12.2004. During service he was afflicted with Dilated Cardiomyopathy and Chronic disease. Certificate was issued to him on 18.05.2009 to the effect that this is a chronic disease. Learned counsel for the petitioner further submits that the petitioner filed CWP-16965-2018 seeking creation of a supernumerary post. Said writ petition was disposed of vide order dated 27.02.2020 (Annexure P-6) with a direction to the competent authority to consider the petitioner's claim and take a final decision thereon expeditiously. It is submitted that no action has been taken on the petitioner's representation till date.

Petitioner seeks extension in service beyond the age of 58 years on the ground that he has been declared to be 75% disabled as per certificate dated 10.03.2017, Annexure P-4 and is entitled to extension in service in terms of Rule 3.26 of Punjab Civil Services Rules Vol.1, Part I, as applicable to Haryana and instructions dated 31.01.2006, Annexure P-14.

Heard learned counsel for the petitioner.

It is the case of the petitioner that while in service, he developed cardiac problem in 2008. Disability certificate dated 16.12.2009 was issued to the petitioner declaring the petitioner to be suffering from "Dilated Cardiomyopathy". Certificate dated 18.05.2009 was issued to the effect that this is a chronic disease. Petitioner was thereafter examined by the Medical Board of Civil Hospital, Panipat and medical certificate dated 05.07.2017, Annexure P-5, was issued certifying that the petitioner suffers from 75% disability 'recurrent ischaemic stroke with diplegia with severe dysarthria'. Petitioner, thereafter, filed CWP-16965-2018, the file of which has been called for and perused. Prayer in the said writ petition reads as under:-

"Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus or any other appropriate writ, order or direction for directing the respondents to adjust the petitioner against supernumerary post as petitioner is suffering from 'Recurrent ischemic stroke with Diplegia as severing Dysarthria' and has been declared 75% permanent physically impairment as per the Disability Certificate dated 05.07.2017 P9 issued by Civil Surgeon Panipat on the basis of diagnose made by Department of Neurology PGIMS, Rohtak Memo No 17/131 dated 10.03.2017.

AND

Further, respondents may kindly be directed not to compel the petitioner to discharge the duties of SS Master as he is not in the position of sitting or walking of even a step and as such requires protection under the provision of Section 20 of 'The Rights of Persons with Disability Act, 2016 by allowing supernumerary post.

AND

Further respondents may kindly be directed to adjust the Extraordinary Leaves availed by the petitioner since 13.10.2008 against special disability leave provision contemplated under Rule 8.124 and 8.125 of CSR Vol. I, Part-1 and release the salary for that period and count the same for all intents and purposes i.e. annual increments, ACP scale etc.

Or

any other appropriate writ, order or direction, which this Hon'ble court may deem fit and proper in the peculiar facts circumstances of the present case, may also be issued."

Said writ petition was disposed of on 27.02.2020 with a direction to the competent authority to consider the petitioner's claim.

Though, learned counsel for the petitioner submits that no supernumerary post has been created, it is candidly stated on a pointed query of the Court that the petitioner continues in service till date. Petitioner in this writ petition now seeks extension in service beyond the age of 58 years on the ground that he has been declared to be 75% disabled as per certificate dated 10.03.2017, Annexure P-4. Petitioner seeks this relief in terms of Rule 3.26(a) of the Punjab Civil Services Rules and Instructions dated 31.01.2006, Annexure P-14. However, I do not find any ground for issuing a direction to the respondents for considering the petitioner's claim for extension in service in the given factual matrix.

As per certificate dated 10.03.2017, it is opined that the petitioner is suffering from 'recurrent ischaemic stroke with diplegia with severe dysarthria. On account of his disease at present his disability is 75% (seventy five percent)'. It is relevant to note that the petitioner was examined by a Board of Doctors and as per report dated 19.01.2021, Annexure P-11, he was found unfit for the job of S.S. Teacher. Relevant part of the opinion rendered by the Board on 19.01.2021 reads as under:-

“Board of Doctors examined the patient Sh. Bhoop Singh clinically and radio-logically. Board is of the opinion that patient is suffering from recurrent CVA with right hemiparesis with impaired comprehension due to left MCA infract with cognitive impairment with CRT-D implantation in situ. In view of DCMP severe LV dysfunction.

Board is of the opinion that patient is unfit for the current job of S.S. Teacher.” (emphasis added)

The petitioner has clearly been certified to be unfit for the job of SS Teacher. In such a situation, where the petitioner is certified to be unfit for even continuing on the post, a direction for extension of service in my considered opinion, is not called for.

Keeping in view the facts and circumstances of the case, I do not find any ground whatsoever to issue a writ of mandamus directing the respondents to consider extension of services of the petitioner for a period of two years, especially keeping in view the opinion rendered by the board on 19.01.2021.

Writ petition is accordingly dismissed.

Needless to say, this order is confined to the relief claimed in the present writ petition only and is not a reflection on any other pending claims of the petitioner, if any with the Department.

30.03.2022

Sunil

(LISA GILL)
JUDGE

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