

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

CWP No. 28397 of 2022
Date of Decision : 14.12.2022

Pawan Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ishan Khetarpal, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

Learned counsel for the petitioner argues that petitioner is working with the Education Department, Haryana and is presently posted as a Punjabi Teacher in Govt. Middle School, Malikpur, District Kaithal.

As per the petitioner, he is a specially abled person having a hearing disability of more than 70% and, therefore, keeping in view the Haryana Civil Services (General) Rules, 2016, he is entitled to continue in service up to the age of 60 years.

Learned counsel for the petitioner submits that the petitioner was required to undergo a medical examination in Post Graduate Institute of Medical Sciences, Rohtak but as, the equipment required for examining the petitioner was not in a working condition there, the petitioner was referred to respondent No. 3-Institution for medical examination and as per the

report given by respondent No. 3-Institution dated 20.09.2022 (Annexure P-5), the medical disability of the petitioner has been assessed less than 70%. Learned counsel submits that the petitioner was medically examined prior to 20.09.2022 and even after the medical examination done by respondent No. 3-Institution on 20.09.2022 in all the examinations, which the petitioner underwent, the disability of the petitioner has been assessed more than 70%, which *prima-facie* shows that the petitioner has not been medically examined as per law to assess his disability by respondent No. 3 as reflected in the Certificate dated 20.09.2022. The prayer of the petitioner in the present petition is that as the equipment to examine his disability is now in working condition in PGIMS, Rohtak, a direction be issued to respondent No. 2 to get his disability examined from PGIMS, Rohtak, which report be taken into account by the Education Department so as to assess whether, the petitioner is entitled to continue in service up to the age of 60 years or not.

Notice of motion.

On the asking of the Court, Mr. Rajesh Gaur, learned Additional Advocate General, Haryana, accepts notice on behalf of the respondent-State.

Though, nothing has come on record to show that the disability examined by respondent No. 2 is deficient in any manner but as per the assertions of the petitioner even after the disability report given by respondent No. 3-Institution, the petitioner has been examined in a Govt. Hospital where his disability has been assessed at more than 70%. Keeping in view the said facts, it will be in the fitness of things so that no prejudice is caused to the petitioner, respondent No. 2 is directed that in case, the

petitioner present this order, disability of the petitioner be assessed in accordance with law and the report of the same be sent directly to the Principal of Govt. Middle School, Malikpur, District Kaithal for their information and necessary action in case any needed.

Respondent No. 2 is requested that the petitioner be examined prior to 31.12.2022.

Present writ petition is disposed in above terms.

December 14, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No