

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-7706-2023 (O&M)

Date of Decision: 17.04.2023

SHAMSHER

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vineet Kumar Jakhar, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for issuance of a writ in the nature of Mandamus directing the respondents to provide necessary marks under the disable category and for updating the service profile of the petitioner, in view of the order dated 11.06.2021 (Annexure P-8) passed by the State Commissioner for the Persons with Disabilities, Haryana and letter dated 08.06.2005 (Annexure P-9) issued by Financial Commissioner and Principal Secretary to the Government of Haryana, Health Department.

Learned counsel for the petitioner submits that the petitioner is a Post Graduate Teacher/Lecturer; that while working at the Government Girls Senior Secondary School, Balsamand, Hisar, the petitioner was transferred to Government Senior Secondary School, Isharwal, Bhiwani, vide order dated 06.09.2022, but the said order is yet to be implemented, as pursuant to the directions contained in the order

dated 23.08.2022 passed in CWP-17560-2022 by the Coordinate Bench of this Court, the representation of the petitioner has not been decided so far. It is further submitted that the wife of the petitioner is suffering from 65% Locomotor disease and Rheumatoid Arthritis, as would decipher from Annexures P-13 and P-14.

Learned counsel for the petitioner further submits that earlier the petitioner had filed CWP-21556-2022 and that the said writ petition was disposed of by a Coordinate Bench of this Court vide order dated 19.09.2022, the relevant extracts, whereof would read as under:-

'Learned counsel for the respondents submits that though, there needs to be adoption of a similar approach by two Departments, for recognizing the chronic disease but as the sphere of the chronic disease are being made operated and that too in different Departments, for two different purposes, certain diseases which are less taxing, have not been included by the Department of Education so as to grant the benefits to the employees while effecting the transfer

Learned counsel for the respondents further submits that though the transfers have already been effected, but for the subsequent years, the grievance raised by the petitioner will be given serious thought so that there is no anomaly in the list of the chronic diseases, for which an employee is to be given benefit either for medical reimbursement or for effecting transfers. Learned counsel for the respondents further submits that to arrive at a correct decision, recommendation of the

Commission will also be sought and will be taken into consideration in this regard and in case required, suitable action will be taken for amending the chronic diseases list being accepted by the Department of Education for effecting the further transfers.'

Learned counsel for the petitioner further submits that the disease suffered by the wife of the petitioner has still not been notified as a chronic disease, though the same has already been notified as Disease of Debilitating Disorder vide order dated 11.06.2021 passed by the State Commissioner for the Persons with Disabilities, Haryana, Social Justice and Empowerment Department. He, thus, prays that the respondent-Department be directed to consider the case of the petitioner for transfer by taking into consideration the aforesaid order.

Notice of motion.

On the asking of this Court, Ms. Tanushree Gupta, DAG Haryana, accepts notice on behalf of the respondents-State. She submits that the matter pertains to a policy decision and the same shall be considered by three Departments i.e. Education, Health and Disability Department, in consultation and coordination with each other.

I have heard the learned counsel for the parties.

As noticed above, the wife of the petitioner is suffering from 65% Locomotor disease and Rheumatoid Arthritis. Locomotor disease has been notified as a Disease of Debilitating Disorder, vide order dated 11.06.2021 passed by the State Commissioner for Persons with Disabilities, Haryana, Social Justice and Empowerment Department, which was duly forwarded to the Additional Chief Secretary, Government Haryana School Education Department and the Additional, Chief Secretary, Government of Haryana, Health Department.

In view of the above, respondent No.2-Additional Chief Secretary, Department of Health, Haryana, is directed to consider the transfer case of the petitioner as per the order dated 11.06.2021 passed by the State Commissioner for Persons with Disabilities, Haryana, Social Justice and Empowerment Department.

Agreeing with the statement made by the learned State counsel, let the decision be taken to include Locomotor disease and declare the same as chronic, with joint effort of the Departments of Health, Education and Disability. Let this order be conveyed to the Heads of the aforesaid three Departments and further needful be done within three months.

Disposed of in the above terms.

17.04.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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