

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

CWP-12596-2019

Date of decision : 03.02.2023

Prem Nath

..... Petitioner

versus

**Punjab Water Resources Management and Development
Corporation and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Surya Kumar, Advocate,
Ms. Vidushi Kumar, Advocate
Mr. Ravinder Chaudhary, Advocate
for the petitioner.

Mr. Sarthak Gupta, Advocate
for respondents No.1 and 2.

Mr. Inderpreet S. Kang, AAG, Punjab.

PANKAJ JAIN, J.

The petitioner prays for issuance of a writ in the nature of mandamus to allow him to work upto 60 years instead of retiring him at the age of superannuation of 58 years. The petitioner claims to have been assessed as jointly disabled to the extent of 50% with total disability of 43% including 30% blindness of right eye and 20% locomotive disability.

2. The petitioner was initially appointed as Helper with respondent-Corporation in the year 1986 and was later on promoted as Tubewell Operator. He is stated to have acquired disability during service. Act No.1 of 1996 i.e. the Persons with Disabilities (Equal

Opportunities, Protection of Rights and Full Participation Act), 1995 (in short '1995 Act') was enactment to provide equal opportunities to persons suffering from various kinds of disabilities and to avoid opportunities for full participation in all matters and to ensure that they do not suffer on account of physical disability.

3. State of Punjab in recognition of such right extended the service tenure of disabled persons upto the age of 60. Rule 3.27 of 1970 Rules/Circular was incorporated in the Punjab Civil Service Rules, 1970 Part I Vol. I (in short '1970 Rules') and a circular dated 19.11.2014 was issued w.r.t. such extension of two years granted to the persons with disabilities. On 27.12.2016, 1995 Act was repealed and substituted by 'The Rights of Persons with Disabilities Act, 2016' (hereafter referred to as '2016 Act').

4. Petitioner who was to retire on 29.02.2020, approached this Court by way of present writ petition seeking directions to the respondents to allow him to continue in service upto 60 years on the strength of Rule 3.27 *ibid* and circular dated 19.11.2014 issued by State of Punjab.

5. Contesting respondents No.1 and 2 in their written statement have taken a stand that the petitioner is suffering from multiple disabilities and these multiple disabilities add upto 43%. Since Rule 3.7 contemplates any one of the disabilities and not the multiple disabilities, the claim of the petitioner would not be covered either under Rule 3.27 of the 1970 Rules or under the circular dated 19.11.2014. It has been averred that since the disability suffered by the

petitioner does not fall in the circular dated 19.11.2014, the petitioner cannot be granted extended service tenure. On 27.12.2016, 1995 Act was repealed by a more comprehensive enactment called as the Rights of Persons with Disabilities Act, 2016.

6. While granting interim relief to the petitioner, this Court on 27.02.2020 passed the following order:-

“CM-17752-CWP-2019

The claim of the applicant-writ petitioner is that he is entitled to continue in service till the age of 60 years, being a physically handicapped person.

Mr. Sarthak Gupta, learned counsel for the Punjab Water Resources Management and Development Corporation, would however contend that in terms of Rule 3.27 of the Punjab Civil Services Rules, 1970, the extension of the age of retirement would be applicable only to persons with the named disabilities, viz., blindness or low vision, hearing impairment, locomotor disability or cerebral palsy.

It may however be noted that Explanation 1 appended to the Rule enlarges the ambit and scope of 'disabilities' by stating that the term 'disabilities' used in the Rule would have the same meaning as defined in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Further, in the light of the repeal of the aforesaid Act and its substitution by the Rights of Persons with Disabilities Act, 2016, the definition of 'disabilities' mentioned in the Rule with reference to the 1995 Act would now have to be read in the context of the 2016 Act.

Though Mr. Sarthak Gupta, learned counsel, would contend that the Rule specifically mentioned only the 1995 Act and that the definition of disabilities in the said Act alone would have to be taken into

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consideration, this Court is of the opinion that the issue would require further examination. Mr. Sarthak Gupta, learned counsel, would also contend that there is no definition of disabilities in the 2016 Act, on par with the 1995 Act. However, perusal of the 2016 Act reflects that a separate Schedule is appended to the Act with regard to 'specified disabilities' and Notifications seem to have been issued thereafter in relation thereto. Therefore, 'multiple disabilities' would now form part of the definition, in terms of the Notification bearing No.S.O. 76 (E) dated 04.01.2018.

In the meanwhile, as the petitioner is to attain the age of 58 years at the end of this month, it would be appropriate that he be continued in service till he attains the age of 60 years. His retirement, if effected now, would have irreversible consequences. There shall accordingly be a direction to the respondent-Corporation to allow the petitioner to continue in service till that stage. Such continuation of the petitioner in service, would however be subject to the result of the writ petition.

CM is allowed in the above terms.

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Ms. Gunkirat Kaur, learned Assistant Advocate General, Punjab, seeks time to file a response on behalf of the State authorities.

Post on 10.08.2020.”

7. Admittedly, the petitioner has served on the strength of the aforesaid order for two years. The question in the aforesaid background is thus:

(i) Whether the disabilities as contemplated under Rule 3.27 of 1970 Rules would be limited to disabilities as defined under 1995 Act only or would include multiple disabilities as have

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been recognized under the substituted Act of 2016.

8. The resistance at the hands of the respondents as per the arguments raised by Mr. Sathak Gupta, is on the claim that the right of extension in service has nothing to do with the central enactment and the right of a disabled persons does not flow from the enactment but from Rule 3.27 of 1970 Rules/Circular. He submits that till circular is amended to include multiple disabilities, the claim of the petitioner cannot be accepted.

9. I have heard counsel for the parties and have gone through the records of the case.

10. Punjab Government vide circular dated 01.08.1977 made provision for the State Government employees suffering from blindness. It resolved to consider their case for re-employment liberally beyond the normal age of retirement i.e. 58 years upto the age of 60 years. The said right of seeking re-employment after superannuation was made absolute by enhancing age of retirement from 58 years to 60 years qua them vide circular No.9/6/94-3PP11/5598 dated 16.03.1995.

The same reads as under:-

**“No. 9/6/94-3PP11/5598 dated
16th March, 1995**

**Subject:- Raising the age of
retirement of the Blind State
Government Employees from
58 years to 60 years.**

I am directed to invite a reference to Punjab Government circular letter No. 7572-3GS-77, dated 1st August, 1977 on the subject noted above, --vide which a provision has been made that the Blind State Government Employees may be granted re-employment liberally after the normal age of retirement up to the age of 60 years on year to year basis, when efficiency continues to be unimpaired, and subject to their being declared physically and mentally fit.

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2. Keeping in view the demand of the blind employees, it has been under the consideration of the State Government that instead of granting of re-employment liberally after the normal age of retirement up to the age of 60 years on year to year basis, it would be appropriate if the retirement age is raised from 58 years to 60 years for the blind State Government Employees because the blind employee are not in a position to pursue their cases for re-employment at different levels.

3. Taking into account the above position, Government have decided to raise the retirement age of the blind State Government Employees from 58 years to 60 years from the date of the issue of these instructions subject to their being declared physically and mentally fit after the age of 58 years by the Civil Surgeon of the District concerned for further service.

4. Necessary amendments to the relevant rules in the Punjab Civil Services Rules will be carried out in due course by the Department of Finance.

5. The receipt of this letter may please be acknowledged.”

11. The same was further clarified vide circular dated 17.01.2001 as under:-

**“No.9/6/94-3PP-11/840 dated
17.1.2001**

**Subject: Raising of age of Blind
Government Employees from 58
years to 60 years.**

I am directed to invite your attention to the circular letter No. 9/6/94-3PP-11/5598, dated 16th March, 1995 on the subject noted above vale which the retirement age of the Blind State Government employees has been raised from St years to 60 years subject to their being declared physically and mentally fit for further service after the age of 58 years by the Civil Surgeon of the District Concerned.

2. The Government has reconsidered the matter in view of the demand of the Blind Employees, there should be no medical check-up after the age of 58 year However, where Blind Government Employee is adjudged mentally or physically unsuitable for performing the duties of the post being held by him only he may be referred for medical check-up. Heads of Departments/Heads of offices should be ensure this personally.

3. Necessary amendments to the relevant rules in the Punjab Civil Services Rules will be carried-out in the due course by the Department of Finance.

4. The receipt of this letter may please be acknowledged.”

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12. The aforesaid circulars however restricted such right of enhancement of age of superannuation only to the persons suffering from visual disability even though 1995 Act recognized other disabilities as well. The circulars were challenged by the persons with disability other than visual disability in the case of '**Bhupinder Singh vs. State of Punjab and others**' reported as **2011(4) RSJ 336**, wherein it was held as under:-

“xx xx xx

10. In my humble opinion the Circulars (Annexures P-2 & P-3) confining the benefit of enhancement of retirement age only to blind persons tends to discriminate between different categories of the persons suffering with disabilities. The benefit of Circular is thus required to be expanded and extended to all physically disabled persons as well. These Circulars are administrative in nature and the Govt. cannot discriminate by its executive or administrative action.

11. In view of the above, this petition is allowed. Respondent- State is directed to suitably modify the Circulars (Annexures P-2 & P-3) and extend the benefit of enhancement of age to all categories of disabled Govt. employees as specified under Section 2 (i) of the Disability Act in tune and spirit of the Act. The petitioner has been retired at the age of 58 years. It is more than one year that the petitioner has retired. I leave it to the wisdom of the State to re-induct the petitioner into service for the rest of period of retirement up to age of 60 years, however, petitioner shall be entitled to emoluments for extended period of retirement. He shall be

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deemed to have retired at the age of 60 years and will be entitled to all consequential benefits.”

13. The said matter was taken before Division Bench. The Division Bench affirmed the order passed by the Single Bench holding that:-

“xx xx xx

Thus, with the enactment of the Disability Act, all such disabled persons, irrespective of the nature of their disabilities, are to be treated equally and at par. The Disability Act places responsibility on the society to make adjustments for disabled people so that they overcome various practical, psychological and social hurdles created by their disability. The Act places disabled people at par with other citizens of India in respect of education, vocational training and employment. The Act seeks to establish a coherent and comprehensive framework for the promotion of just and fair policies and their effective implementation. It creates formal procedures, which hasten the process of full and total integration of the disabled in the society. It also aims at facilitating efficient enforcement of policies and permits strong measures against the law-breakers. The main aim of PWD Act is also to define the responsibilities of the Central and State Governments with regard to the services for disabled persons. The Act aims to ensure full life to a disabled individual so as to enable him to make full contribution in accordance with his disability condition.

The aforesaid discussion would amply demonstrate that it is not only the statutory but

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constitutional right of persons suffering from disabilities to get special treatment recognized by law. In this process, persons suffering from one disability cannot be treated differently from other kind of disability. All disabled persons falling within the definition of Section 2(I) of the Disability Act form one class. There cannot be sub-classification within this same class.

For these reasons, we do not find any justification on merits in any of the submissions of Mr.Puri.

Accordingly, LPA No.1719 of 2011 and No.2093 of 2011 are dismissed while LPA No.307 of 2012 is allowed in the light of our observations made hereinabove.”

14. It is the aforesaid view formulated by the Division Bench in light of the 1995 enactment, which was followed by State of Punjab and originated as Rule 3.27 of 1970 Rules.

15. While tracing the history of 1995 Act, Apex Court in the case of **‘Kunal Singh vs. Union of India and another’** reported as **(2003) 4 Supreme Court Cases 524** observed that:-

“xx xx xx

8. The need for a comprehensive legislation for safeguarding the rights of persons with disabilities and enabling them to enjoy equal opportunities and to help them to fully participate in national life was felt for a long time. To realize objective that people with disabilities should have equal opportunities and keeping their hopes and aspirations in view a meeting called the 'Meet to Launch the Asian and Pacific Decades of Disabled Persons' was held in

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Beijing in the first week of December, 1992 by the Asian and Pacific countries to ensure 'full participation and equality of people with disabilities in the Asian and Pacific Regions'. This Meeting was held by the Economic and Social Commission for Asia and Pacific. A Proclamation was adopted in the said meeting. India was a signatory to the said Proclamation and they agreed to give effect to the same. Pursuant thereto this Act was enacted, which came into force on 1st January, 1996. The Act provides some sort of succor to the disabled persons.”

16. Coming to the framework enacted in the 1995 Act, the relevant provisions are:-

“2(i) In relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonment Act, 1924, the Central Government.

33. Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent. for persons or class of persons with disability of which one per cent. Each shall be reserved for persons suffering from-

(i) Blindness or low vision;

(ii) Bearing impairment;

(iii) Loco motor disability or cerebral palsy, in the posts identified for each disability.

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be

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specified in such notification, exempt any establishment from the provisions of this section

38. (1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for-

- (a) The training and welfare of persons with disabilities;
- (b) The relaxation of upper age limit;
- (c) Regulating the employment;
- (d) Health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;
- (e) The manner in which and the person by whom the cost of operating the schemes is to be defrayed; and
- (f) Constituting the authority responsible for the administration of the scheme.

39. All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seat for persons with disabilities.

47. (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, could 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,

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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.”

17. The 1995 Act now stands substituted by a modified and elaborate version as 2016 Act.

18. Statement of objects and reasons of 2016 Act which do provide a window to have a glance of comparative analysis of 1995 Act and its improved version of 2016 Act reads as under:-

Statement of Objects and Reasons.-The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was enacted to give effect to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region. The Act defines Persons with Disabilities as those having not less than forty per cent, disability and identified seven categories of disabilities, namely, blindness, low vision, hearing impairment, locomotor disability, mental retardation, mental illness and leprosy-cured.

2. Over a period of time, the conceptual understanding of the rights of persons with disabilities has become more clear and there has been world-wide change in approach to handle the issues concerning persons with disabilities. The United Nations adopted its Convention on the Rights of Persons with Disabilities laying down the principles to be followed by the States Parties for empowerment of persons with disabilities. India signed

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the said Convention and subsequently ratified the same on the 1st day of October, 2007, The Convention came into effect on the 3rd day of May, 2008. Being a signatory to the Convention, India has an international obligation to comply with the provisions of the said Convention which required an entirely new legislation.

3. In 2010, an Expert Committee constituted under the Chairmanship of Dr. Sudha Kaul Vice Chairperson, Indian Institute of Cerebral Palsy, Kolkata submitted its report In 2011, suggesting a Draft Bill relating to the Rights of Persons with Disabilities. The draft Bill was extensively debated upon at various levels involving State Governments and Union territories and various stakeholders.

4. The salient features of the Rights of Persons with Disabilities Bill, 2014, inter alia, are:-

- (i) Nineteen specified disabilities have been defined;
- (ii) the persons with disabilities enjoy various rights such as right to equality, life with dignity, respect for his or her integrity, etc., equally with others;
- (iii) duties and responsibilities of the appropriate Government have been enumerated;
- (iv) all educational institutions funded by appropriate Government shall provide M inclusive education to the children with disabilities;
- (v) a National Fund is proposed to provide financial support to persons with disabilities;
- (vi) stakeholders' participation in the policy making through Central and State Advisory Boards;
- (vii) increase in reservation in posts from existing three per cent. to five per cent. In the vacancies for persons or class of persons with benchmark disabilities in every establishment and reservation of seats for students with benchmark disabilities in higher educational institutions;
- (viii) setting up of National Commission and State Commission to act as Grievance Redressal Mechanism, monitor implementation of the proposed legislation replacing the Chief Commissioner and State Commissioners for persons with disabilities, respectively;
- (ix) guidelines to be issued by the Central

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Government for issuance of certificates of of specified disabilities;

(x) penalties for offences committed against persons with disabilities; and

(xi) Court of Session to be designated as Special Court by the State Government in for every district to try offences.

5. The Bill seeks to achieve the above objects.”

19. It was in order to achieve the aforesaid objects, the provisions of 1995 Act were re-enacted with broader sweep in 2016 Act as under:-

“2.xx xx xx

c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society;

xx xx

(r) “person with benchmark disability” means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

(s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;

xx xx

(zc) “specified disability” means the disabilities as specified in the Schedule;

CHAPTER VI
SPECIAL PROVISIONS FOR PERSONS WITH

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BENCHMARK DISABILITIES

31. Free education for children with benchmark disabilities-

(1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.

(2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

32. Reservation in higher educational institutions.-

(1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities;

(2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education.

33. Identification of posts for reservation.-The appropriate Government shall—

(i) identify posts in the establishments which can be held by respective category of persons with benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 34;

(ii) constitute an expert committee with representation of persons with benchmark disabilities for identification of such posts; and

(iii) undertake periodic review of the identified posts at an interval not exceeding three years.

34. Reservation.-(1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which,

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one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:—

(a) blindness and low vision;

(b) deaf and hard of hearing;

(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

(d) autism, intellectual disability, specific learning disability and mental illness;

(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:

XX XX

102. Repeal and savings.-(1) The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 is hereby repealed.

(2) Notwithstanding the repeal of the said Act, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.”

20. Thus, once the saving clause as contained in Section 102(2) which starts with the non-obstente clause itself provides that anything done or any action taken under the 1995 repealed Act shall be deemed to have been done or taken under the corresponding provisions of 2016 Act, the plea raised by counsel for the respondents cannot be accepted.

21. I may add another argument raised at the behest of respondents.

22. In exercise of powers conferred by Sub-Sections 1 and 2 and Section 73 of the 1995 Act, the Central Government enacted rules

namely the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Rules), 1996. Rule 2C defined multiple disabilities as under:-

“2(c) “multiple disabilities” means a combination of two or more disabilities as defined in clause (i) of section 2 of the Act;

23. Rule 4 of the 1996 Rules prescribes that the medical authority shall after satisfying himself that the applicant is a person with disability issue a disability certificate in his favour in form II, form III or form IV as applicable.

24. Proforma of Form III reads as under:-

“FORM III
(See rule 4)
DISABILITY CERTIFICATE
(In case of multiple disabilities)
(Name and address of the Medical Authority Issuing the Certificate)

Recent PP size Attested
Photograph (Showing
face only) of the person
with disability

Certificate No.
This is to certify that we have carefully examined
Shri/Smt/Kum...../
son/wife/daughter of
Shri.....Date of
Birth.....Age.....years,
male/female.....
(DD) (MM) (YY)
Registration No.....permanent, resident of
House No.
.....Ward/Village/Street.....Post
Office
District.....State.....
.....
whose photograph is affixed above, and are satisfied that:
(A) He/She is a case of Multiple Disability. His/her extent of permanent physical impairment/disability has been evaluated as per guidelines (to be specified) for the disabilities ticked below, and shown against the relevant disability in the table below:

Sl. No.	Disability	Affected Part of Body	Diagnosis	Permanent physical impairment/mental disability (in %)
1.	Locomotor disability	@		
2.	Low vision	#		
3.	Blindness	Both Eyes		
4.	Hearing impairment	£		

5. Mental retardation	x
6. Mental-illness	x

(B) In the light of the above, his/her over all permanent physical impairment as guidelines (to be specified), is as follows:-

In figures:-
In words:-

_____per cent

_____per cent

2. This condition is progressive/non-progressive/likely to improve/not likely to improve.

3. Reassessment of disability is:

(i) not necessary,

Or

(ii) is recommended/after.....years.....month, and therefore this certificate shall be valid till.....

(DD)

(MM)

(YY)

@ e.g. Left/Right/both arms/legs
e.g. Single eye/both eyes
£ e.g. Left/Right/both ears

4. The application has submitted the following document as proof of residence:-

Nature of Document	Date of Issue	Details of authority issuing certificate
5. Signature and seal of the Medical Authority		

Name and seal of Member	Name and seal of Member	Name and seal of the Chairperson
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25. Thus, it is evident that even the Rules framed under 1995 Act recognized multiple disabilities.

26. Rule 3.27 makes it abundantly clear that the same has been enacted in recognition of the right of a person with disability under the central enactment. Rule was enacted while 1995 Act was in vogue. Without falling upon Section 24 of the General Clauses Act, 1897, it is clear that Section 102 of the 2016 Act repeals 1995 Act and substitutes the same with 2016 Act qua acts done under 1995 Act.

27. To interpret Rule 3.27 of Rules 1970 in the manner that the term ‘disability’ shall have the meaning as defined in 1995 Act even though the same stands repealed would be interpreting the law as a dead being. Law is organic and the same has to be thus interpreted in a

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integrity of this document

progressive manner and not in regressive manner. Reliance can be placed upon *Navtej Singh Johar vs. Union of India (2018) 10 SCC 1*. Once Act of 1995, a stands eclipsed and substituted by Act of 2016, obviously explanation 1 appended to Rule 3.27 of 1970 Rules has to be read in the light of disabilities as defined under 2016 Act, not as per the provision which stands eclipsed. The recognition under the enactment and the law is to the disadvantage faced by disabled. Even 1995 Act by way of Rules enacted thereunder recognized multiple disabilities. To reiterate and repeat the enactment is for the disabled and not for the disability.

28. Counsel for the respondent is not in position to dispute that conjoint reading of Section 2(r), 2(zc) and schedule appended to 2016 Act leaves no doubt that the petitioner falls within the ambit of definition of 'person with benchmark disability' as adumbrated under 2016 Act.

29. In view of the aforesaid, this Court finds that once the petitioner is held to be a person with benchmark disability, even though owing the multiple disabilities which has been recognized under Section 2(r) of 2016 Act as well as the rules framed under 1995 Act, there is no reason for the respondents to deny the claim of the petitioner for extension in service upto 60 years. This Court has no hesitation in holding that once Act of 1995 stands repealed and substituted by Act No.49 of 2016, explanation 1 appended to Rule 3.27 of 1970 Rules shall be read in the light of definition of 'person with benchmark disability' as defined under Section 2(r) of 2016 Act.

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30. As a sequel of discussion held hereinabove, the present writ petition is allowed. Petitioner is held entitled to be in service till the time he attained age of 60 years. All his service benefits and terminal benefits shall be released accordingly within a period of 12 weeks from the date of receipt of certified copy of the order.

31. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

03.02.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : Yes