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2023:PHHC:130166

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

CWP-13632-2023

Date of decision : 05.10.2023

Sant Ram

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Sherry K.Singla, Advocate
for the petitioner.

Mr.Arun Gupta, AAG, Punjab.

Mr. Gurnoor Singh Sethi, Advocate
for respondent Nos.2 and 3.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has filed this writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to consider his claim for extension of the benefit in view of circular dated 22.04.2022 (Annexure P-3) issued by the respondent No.2, whereby benefit of enhancement of retirement age from 58 years to 60 years has been extended to all disabled employees and to grant consequential benefits to the petitioner by extending the benefit of extension of two years of service as the petitioner is suffering from permanent disability of hearing.

Learned counsel for the petitioner contends that as per Circular dated 22.04.2022 (Annexure P-3) issued by respondent No. 2, the benefit of enhancement of retirement age from 58 years to 60 years has been extended to

all disabled employees, which has been issued under the provisions of Rights of Persons with Disabilities Act, 2016 and the petitioner is entitled for grant of consequential benefits along with the benefit of extension of 02 years of service, as he is also suffering from permanent disability of hearing impairment. Learned counsel refers to the policy dated 22.04.2022 and submits that as per Clause 4 of the said policy, the concerned should apply three months prior to the age of 58 years so that his claim can be considered, but in respect of representation (Annexure P-4), no decision has been taken so far and the petitioner is due to retire on 31.07.2023.

As per the order dated 27.07.2023, this Court directed the respondents that decision with regard to retirement of the petitioner on attaining the age of superannuation be kept in abeyance till the next date of hearing.

Learned counsel for respondent Nos.2 and 3 submits that vide order dated 05.09.2023, this Court had directed the Director, Medical College, Amritsar to conduct the medical examination of the petitioner within a period of two weeks to assess the disability of the petitioner. He further submits that as per letter dated 18.09.2023 of the Board of Doctors, the disability of the petitioner is calculated as being 11.42% in both ears, whereas the requisite percentage of disability should be at least 40% or more for availing the benefit of enhancement of retirement age from 58 years to 60 years. In such case, the claim made by the petitioner cannot be accepted as he is not entitled for the same.

I have heard learned counsel for the parties and have gone through the case file carefully.

In view of the stand taken by way of affidavit dated 24.07.2023 as well as submission made by learned counsel for respondent Nos.2 and 3, the petitioner has sought benefit of enhancement of retirement age from 58 years to 60 years being a disabled employee based upon circular dated 22.04.2022, but to avail said benefit, an employee who is suffering from minimum 40% of total disability, would produce the certificate issued by the Medical Board of any of the medical institutions as specified therein. It is further mentioned that for such consideration the employee/applicant would submit application in conformity to instructions dated 17.09.2021. As per the reply submitted by respondent Nos.2 and 3, petitioner has appended his disability certificate dated 06.01.2023 issued by Medical Authority, Rupnagar (Punjab) and as per the said certificate, the petitioner is suffering from 100% permanent disability in his left ear only, however, as per instructions to avail the benefit of enhancement, the petitioner's claim can be considered only when he has total disability of minimum 40% being in reference to both the ears. In compliance of order dated 27.07.2023 passed by this Court, petitioner was directed to get himself examined from the institution mentioned in circular/instructions (R-1) and in pursuance to the same, as per letter bearing No.ENT No.584 dated 18.09.2023 produced by the learned counsel for respondent Nos.2 and 3, which shows that Board of Doctors has assessed the disability of the petitioner as being 11.42% in both ears, whereas disability should be 40% or more for availing the benefit of enhancement of retirement age from 58 years to 68 years.

In view of the above discussion, prayer made in the present petition for enhancement of age of the petitioner from 58 years to 60 years cannot be accepted, as the petitioner is not entitled for the said benefit even as

per the Circular dated 22.04.2022 (Annexure P-3).

Consequently, present writ petition being devoid of merits is dismissed.

(DEEPAK MANCHANDA)
JUDGE

05.10.2023
seema/vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No