

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

**220**

**CWP-1793-2018 (O&M)  
Date of decision: 01.02.2023**

Dinesh Kumar and another

...Petitioners

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present:- Mr. Sandeep Verma, Advocate for the petitioners.

Ms. Tanushree Gupta, DAG Haryana.

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**HARNARESH SINGH GILL, J. (ORAL)**

Prayer in the present petition is for issuance of a writ in the nature of mandamus directing the respondents to grant the arrears of benefit of Handicapped Allowance along with interest, to the petitioners from the date of their appointment.

Learned counsel for the petitioners submits that the petitioners were appointed on the posts of Junior Basic Training (JBT) Teacher on 24.12.2004 in General Category as there was no post in the Handicapped Category; that the petitioners joined their duties on 24.12.2004; that the petitioners are handicapped persons since their birth; that petitioner No.1 is 40% disable with post-Polio mild to moderate weakness of left leg and inability to walk properly and that petitioner No.2 is also 40% disable with deformation of left thigh and right leg with flat foot with muscle weakness of both legs. He draws the attention of this Court towards Notification dated

19.07.2016 issued by the Government of Haryana regarding conveyance allowance to blind and orthopedically handicapped Government employees.

The relevant part of the Notification, would read as under:-

*“22. (1) A Government employee working on regular basis, who is declared —*

- (i) blind or having vision less than 3/60 of field vision less than 10 in both eyes by the Head of Ophthalmological Department of a Government Civil Hospital; or*
- (ii) orthopaedically handicapped with a minimum of 40% permanent partial disability of either upper or lower limbs by the Head of Orthopaedics department of a Government Civil Hospital; or*
- (iii) orthopaedically handicapped with overall minimum 50% permanent partial disability of both upper and lower limbs together by the Head of Orthopaedics department of a Government Civil Hospital; or*
- (iv) suffering from the Spinal deformity causing permanent partial disability of above 40% by the Head of Orthopaedics department of a Government Civil Hospital;*
- (v) shall, subject to provisions in these rules, be entitled to a conveyance allowance at the rate of 10 per cent of basic pay subject to minimum Rs. 1,000/- and maximum Rs. 2,000/- per month or as prescribed from time to time. The dearness allowance at the prevailing rate shall also be admissible on conveyance allowance.*

*(2) No conveyance allowance shall be admissible to—*

- (i) one eyed (partially blind) Government employee; or*
- (ii) those who covered under these rules but have been provided with the facility of vehicle at Government expenses for journey between office and residence.*

*Note.- For the purpose of assessing of disability, the standards as contained in the Manual for Orthopaedic Surgeon in Evaluating Permanent Physical Impairment brought out by the American Academy of Orthopaedic Surgeon U.S.A., and published on their behalf by Artificial Limbs Manufacturing Corporation of India, G.T. Road, Kanpur, shall apply.”.*

Learned counsel for the petitioners further submits that vide communication dated 02.05.2017 (Annexure P-10), respondent No. 4-District Elementary Education Officer, Mewat at Nuh, had accorded sanction to grant of conveyance allowance @ 10% of the basic pay subject to a maximum of Rs. 2000/- per month to petitioner No.1 as per the terms and conditions of Haryana Finance Department letter dated 16.08.2011; that petitioner Nos. 1 and 2 have been given handicapped allowance since September-2017 and 01.01.2014 respectively; that thereafter, the petitioners submitted a representation to respondent No.3 on 25.10.2017 (Annexure P-9) regarding release of arrears of handicapped allowance to them since the date of their initial appointment with interest and had also attached their disability certificates issued by the competent authority, but till date no action has been taken on their representation.

Learned State counsel submits that as per the written statement dated 26.11.2018 filed on behalf of respondent Nos. 1 to 5, there is no seriousness defined in the disabilities certificates by the Medical Board and the same has been defined up to 40% only. She further submits that in the present case, due procedure has not been followed by the petitioners i.e. they did not forward any document(s) in support of their claim, fulfilling the terms and conditions of letter dated 10.09.1982.

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

Admittedly, the petitioners were appointed as JBT Teachers in General Category and they joined as such in the year 2004 and not in the handicapped category and as per Notification dated 19.07.2016 issued by the

Government of Haryana, orthopaedically handicapped with a minimum of 40% permanent partial disability of either upper or lower limb by the Head of Orthopaedics department of a Government Civil Hospital, will be considered for the grant of conveyance/travelling allowance. Though the petitioners have placed on record disabilities certificates indicating the percentage of disability issued by the Medical Board i.e. dated 07.07.2004/08.03.2017 (Annexures P-2 and P-3) of petitioner No.1 and dated 29.01.1996 of petitioner No.2, yet as per the learned State counsel, the petitioners did not follow the due procedure i.e. they should have first approached the Head of Department, who could have relegated them to the Medical Board and the Board in turn would have forwarded its report for consideration of the claim of the petitioner for grant of conveyance allowance.

Since there is no recommendation from the Head of the Department supported with the report of a duly constituted Medical Board regarding the medical examination of the petitioners as per the norms, no case for interference is made out in the present petition.

In view of the above, finding no merit in the present petition, the same is dismissed.

**(HARNARESH SINGH GILL)**  
**JUDGE**

**01.02.2023**

*Mangal Singh*

Whether reasoned/speaking?  
Whether reportable?

Yes/No  
Yes/No