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

**CWP-19426-2022 (O&M)
Date of decision : 22.03.2023**

Makhan Singh

..... Petitioner

versus

Punjab State Power Corporation Ltd. and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Prateek Sodhi, Advocate
for the petitioner.

Mr. Deep Inder Singh Walia, Advocate
for the respondents.

Mr. Parminder Singh Kanwar, Additional Standing Counsel
for U.T. Chandigarh.

Mr. Param Vir Singh Doon, Advocate
for PGI.

PANKAJ JAIN, J. (Oral)

Today report from PGIMER has been received in a sealed cover. The same has been opened in the presence of counsel representing the parties. The report reads as under:-

MEDICAL EXAMINATION REPORT

“The Medical Board consisting of 3 members i.e. Dr. Ramandeep Singh, Dr. Chintan Malhotra and Dr. Mohit Dogra has examined Mr Makhan Singh, 59 Male, S/o Sh. Amar Singh, resident of Shahpur, Wadala Banger, Punjab, India vide CR. No 202301582467 at the Advanced Eye Centre, PGIMER, Chandigarh on 17.02.2023. On examination, his best corrected visual acuity was 6/24P (+0.25De/+0.50Ds x15) in the right eye and no light perception in the left eye. His near vision was N24 with +3.00D in the right eye. His colour vision on Ishihara Chart showed that he can't recognize even demo plates in right eye. Corneal Topography was within normal limits. Left Eye has amblyopia/ corneal opacity and high myopia. Right

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eye has immature senile cataract. Rest of the right eye anterior posterior segment was normal.

In view of 6/24P best corrected vision in right eye, and no light perception in the left eye, his visual disability is 60%.

sd/-	sd/-	sd/-
Dr. Ramandeep Singh Professor Advanced Eye Centre PGIMER, Chandigarh	Dr. Chintan Malhotra Professor Advanced Eye Centre PGIMER, Chandigarh	Dr. Mohit Dogra Professor Advanced Eye Centre PGIMER, Chandigarh”

2. On 22.11.2022, following order was passed:-

“**CM-18089-CWP-2022**

Prayer in this application is for preponement of the main case which is listed for hearing on 24.03.2023.

For the reasons mentioned in the application, same is allowed. Hearing of the main case is preponed and the same is taken on board today itself.

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The grievance of the petitioner herein is that he is suffering from 60% permanent disability and by virtue of said disability, is entitled to continue in service till he attains the age of 60 years. It is submitted that a similar certificate has been issued on 30.03.2022 when the Medical Superintendent has countersigned the same. However, now the respondents would like to rely upon a communication from the office of Civil Surgeon, Patiala dated 13.05.2022 which mentions that the petitioner has 30% disability handicap. The petitioner herein is ready and willing to undergo a test from any Medical Board as constituted under order of this Court.

At this stage, Mr. Deep Inder Singh Walia, Advocate, has put in appearance on behalf of contesting respondents-Punjab State Power Corporation Limited and seeks time to file reply.

Since there are two divergent opinions regarding the disability of the petitioner herein, it would be

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expedient to direct the petitioner herein to appear before the Medical Board to be constituted by Government Multi Specialty Hospital, Sector 16, Chandigarh.

Accordingly, petitioner herein is directed to deposit a sum of Rs.20,000/- with the Registrar of this Court by tomorrow and on such deposit, the petitioner will present himself before the Government Multi Specialty Hospital, Sector 16, Chandigarh, on 29.11.2022 at 11.00 AM, where a Board of Doctors will be constituted to assess his permanent disability.

Mr. Anil Mehta, Senior Standing Counsel for UT, Chandigarh along with Mr. Nishant Indal, Advocate, has been asked to join the proceedings in this case. He is requested to inform the authorities at Government Multi Specialty Hospital, Sector 16, Chandigarh, to constitute a Board of Doctors so as to assess the permanent disability of the petitioner herein and submit a report in a sealed cover to this Court on the next date of hearing.

For awaiting report, list on 25.01.2023.”

3. However, later on Government Multi Hospital, Sector-16, Chandigarh found that the matter be referred to ACE i.e. Advanced Eye Centre, PGIMER that is how the aforesaid report was requisitioned from the PGIMER.

4. Counsel for the petitioner would submit that in view of the report received, the case of the petitioner would fall within the parameters as laid down in policy decision for extension of service, whereas counsel for the respondents submits that as per R-2, for availing the benefit for extension of retirement from 58 to 60 years, it is necessary for an employee to submit disability certificate at least six months prior to the date of

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retirement. He thus submits that the petitioner having not complied with the aforesaid strict condition, the claim of the petitioner was rightly declined.

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

6. A bare perusal of the impugned order Annexure P-13 dated 12.08.2022 would reveal that the claim of the petitioner was rejected on the ground that the concerned medical authority i.e. Civil Surgeon, Patiala who conducted the medical investigation, reported disability of the petitioner to be 30% and since the disability was less than 40% as assessed by the doctor, the same was declined.

7. In the considered opinion of this Court, once report of medical board under the aegis of Advanced Eye Centre, PGIMER has come on record, the dispute w.r.t. extent of visual disability of the petitioner has been laid to rest and thus the petitioner having been found to be disabled to the extent of more than 40% would be well entitled for extension of service beyond 58 years.

8. Resultantly, the present writ petition is disposed off. Impugned order of retirement dated 24.03.2022 (P-1) and that speaking order dated 12.08.2022 (P-13) are hereby ordered to be set aside. Respondent-Corporation is directed to allow the petitioner to work till he attains the age of 60 years. Needless to say, since the petitioner has been kept out of job despite his right to continue by the Corporation, he will be entitled for all benefits. Amount of Rs.20,000/- ordered to be deposited vide order 20.12.2022 is ordered to be remitted back to the petitioner in terms of the same.

9. Ordered accordingly.
10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

22.03.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No