

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

CWP No. 18667 of 2023
Date of Decision : 25.08.2023

Jaspal Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parminder Singh, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the prayer of the petitioner is that as he is a physically handicap person having 70% disability in his right arm, hence, is entitled to continue in service till the age of 60 years and the action of the State in declining the approval to the Resolution passed by the Society granting the petitioner extension in service is liable to be set-aside.

2. I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

3. It may be noticed that the petitioner is seeking extension in service on the ground that he is a physically handicap person and the reliance is being placed upon the Instructions issued by the Government of Haryana to the claim that the handicapped persons, who have more

than 40% of permanent disability, are entitled to continue in service upto the age of 60 years.

4. Concededly, the petitioner is working in a Society, which cannot be termed as a Government Institution. Nothing has been placed on record so as to show the source of generation of funds of the Society so as to record a finding that the Society where the petitioner is working, is covered under the 'any other authority' as envisaged under Article 12 of the Constitution of India.

5. Keeping in view the said fact, any Instructions which have been issued by the Government, will not be ipso-facto applicable upon the Society and nothing has been placed on record that the Instructions being relied upon by the petitioner to claim the extension in service upto the age of 60 years being a handicapped person, was ever adopted by the Society, the claim of the petitioner is that he is entitled to continue in service till the age of 60 years being handicapped keeping in view the Instructions issued by the Government of Haryana cannot be accepted.

6. The second argument, which has been raised by the learned counsel for the petitioner is that the Society concerned i.e. the employer had already passed a Resolution extending the service of the petitioner being handicapped. Learned counsel for the petitioner submits that even under the bye-laws of the Society, the employer has a right to extend the service of the employee beyond the retirement age but subject to the approval of the Registrar, Cooperative Societies and the said extension can only be granted under the exceptional circumstances.

7. It may be noticed that the only reason given for consideration of the Registrar, Cooperative Societies for extension of the service of the petitioner was that he is a physically handicap employee. Being a handicap employee is not an exceptional circumstance so as to be given extension in service. The denial of the approval to the Resolution of the Society by the Registrar Cooperative Societies by the impugned order dated 07.08.2023 (Annexure P-7) cannot be termed as arbitrary and illegal, especially when in the facts and circumstance of the present case, no exceptional circumstances has been pointed out by the learned counsel for the petitioner so as to entitle the petitioner to continue in service upto the age of 60 years.

8. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

9. Dismissed.

August 25, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No