

2024:PHHC:136448-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-14976-2024

Reserved on : 18.07.2024

Pronounced on : 15.10.2024

SURESH KUMAR PANCHAL

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDAPresent: Mr. Rakesh Sobti, Advocate
for the petitioner.

DEEPAK MANCHANDA, J.

1. Through this writ petition filed under Article 226 of the Constitution of India the petitioner seeks quashing of Rule 143(1)(i) of the Haryana Civil Services (General) Rules, 2016 (Annexure P-4) and letters dated 31.01.2006 (Annexure P-2) and 21.04.2008 (Annexure P-3) to the extent of fixing the degree of disability at 70% and above, being in violation of Rights of Persons with Disabilities Act, 2016 dated 28.12.2016 and also being in violation of judgment dated 04.03.2015 passed by this Court in CWP No.3919 of 2015 titled as ***“Hardev Kaur Vs. State of Haryana and others”*** with a further prayer for quashing of order dated 28.03.2022 (Annexure P-10) whereby petitioner has been retired on 31.03.2022 and to allow the petitioner to provisionally join and continue upto the age of 60 years.

2. The outlined facts emanating from the pleadings are that the petitioner joined as Clerk on 05.07.1990 and as per disability certificate

dated 17.01.2022 (Annexure P-1), he is having 65% disability of Bilateral Avascular Necrosis of Femur Head. Vide instructions dated 31.01.2006 (Annexure P-2), respondent No.1 raised the age of retirement of physically handicapped government employees from 58 years to 60 years. However, as per instructions, the said benefit was available only to those disabled employees who possess the minimum degree of disablement to the extent of 70% and above. The petitioner sought extension in his service based upon the said instructions through his representation dated 19.01.2022 (Annexure P-8) presented before respondent No.3 as he was going to retire on 31.03.2022. Respondent No.3, vide letter dated 15.02.2022 (Annexure P-9), forwarded the petitioner's said representation for conducting the medical of the petitioner and for issuance of a disability certificate. Though disability certificate was not issued and during this period on 31.03.2022, the petitioner was superannuated from his service. Now, after coming to know about the pendency of similar writ petitions before this Court, the petitioner claimed through this petition has claimed the same benefit relying upon the case of one Jora Singh, who was allowed to continue and is now seeking parity with him.

3. Learned counsel for the petitioner contends that the action of the respondents is in violation of the settled proposition of law laid down in writ petition being CWP-3919-2015 titled as ***“Hardev Kaur Vs. State of Haryana and others”*** where the condition of 70% disability in the instructions dated 31.01.2006 was ordered to be set aside by this Court and same has already been implemented by the State by extending service of the similarly situated employees upto the age of 60 years. Learned counsel further contends that the petitioner has been discriminated wherein in the Rule 143 which has been challenged through this writ petition has already

been set aside by this Court in *Hardev Kaur's case (supra)* and extension has already been granted to the petitioner(s) therein along with similarly situated employees and has referred to the case of Jora Singh, who has filed the writ petition i.e. CWP No.2340 of 2023 where he was also ordered to continue to perform his duties till further orders and same is pending adjudication before this Court. Learned counsel for the petitioner submits that since similar benefit has been denied to the present petitioner as firstly disability certificate was not issued to him by the authorities and in the meantime, he was forcibly superannuated without extending the benefit as given to other employees. The said action is illegal, arbitrary and unconstitutional and prays that the petitioner be provisionally allowed to continue service during pendency of present petition.

4. We have heard learned counsel for the petitioner.

5. A perusal of pleadings would show that the present petition has been filed after a gap of more than two years of the petitioner's retirement. The petitioner claims parity with one Jora Singh whose petition is pending before this Court. A perusal of the petition filed by Jora Singh reveals that the same had been filed on 01.02.2023 which was much before his retirement which was due on 22.02.2023 whereas in present case, the petitioner superannuated on 31.03.2022 and the claimed benefit of the extended period of service of 02 years upto the age of 60 years had already come to an end on 31.03.2024. He filed the present petition on 24.06.2024. As per instructions dated 31.01.2006, the age of retirement of a Physically Handicapped government employee was raised from 58 years to 60 years. Before the filing of the instant petition, the petitioner had already completed 60 years of age. At this stage, neither the claimed benefit nor any parity with other similarly situated employees can be granted.

6. Given the above discussion, we are of the view that the petitioner has not approached this Court well within time and now after being superannuated, the petitioner is not entitled for any relief as he remained silent for nearly two and a half years. Being a fence sitter he only woke up when he came to know about the pendency of a similar issue before this Court. The plea of the petitioner being a similarly situated employee by relying upon the pendency of CWP No.2340-2023 titled as “*Jora Singh Vs. State of Haryana and others*” is distinguishable on the ground that the petitioner therein, namely, Jora Singh approached this Court much before his retirement and filed the petition well within time whereas the said plea of the present petitioner is not tenable as he has approached this Court after a gap of two and a half years of his retirement at a be-lated stage. His claim is clearly hit by delay and latches.

7. In the light of above, this petition is dismissed in limine.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

15.10.2024

Nisha Yadav

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No