

2024.PHHC.135618-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20578-2024

Reserved on : 27.08.2024

Pronounced on : 15.10.2024

OM PARKASH

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDAPresent: Mr. R.K. Makkad, 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) under Chapter XI of Haryana Civil Services (General) Rules, 2016 and Note 3 of the said Rule notified on 17.09.2016 (Annexure P-11) to the extent of fixing the degree of disability at 70% and above, being in violation of Section 2(h), 2(r), 3, 20 & 21 of Rights of Persons with Disabilities Act, 2016 dated 28.12.2016 and 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 the entry made in the service book of the petitioner (Annexure P-1) by virtue of which the representation of petitioner seeking extension of 02 years in service beyond the age of 58 years was declined resultantly, the petitioner was superannuated from his service on 28.02.2022 before his actual date of

retirement i.e. 29.02.2024. Another prayer for issuance of directions to the respondents to treat his disability certificate (Annexure P-3) valid for all purposes along with assessment issued by PGIMS, Rohtak dated 15.02.2022 (Annexure P-8) along with all consequential benefits arising therefrom i.e. Revision of salary, DCRG, Pension, gratuity, leave encashment, etc. from the date of illegal retirement along with arrears with interest @ 24% per annum till the date of 60 years from the date of illegal superannuation, has been made.

2. The outlined facts emanated from the pleadings are that petitioner was appointed on the post of Junior Lecturer Assistant (JLA) under unreserved category on 08.08.1984 and is permanently disabled to the extent of 60%, as per earlier disability certificate dated 18.08.1984 (Annexure P-3) which was assessed by the District Medical Board. As per receipt medical certificate dated 18.02.2021 (Annexure P-8) issued by PGIMS, Rohtak, the petitioner was found suffering from 50% permanent locomotor disability. Vide instructions dated 31.01.2006 (Annexure P-10), 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 is available only to those disabled employees who possesses the minimum degree of disablement to the extent of 70% and above. The petitioner also sought extension in service based upon the said instructions (Annexure P-10) but same was not accepted on the ground that as petitioner was having 60% disability and was not eligible for the extension of service for two years beyond the age of 58 years under the provisions of Rule 143 (1) of Haryana Civil Services (General) Rules, 2016. Accordingly, the petitioner was superannuated on 21.02.2022 and the entry to this effect was also made in his service book. Being aggrieved for non-

acceptance of his prayer regarding extension of age by the petitioner in light of the instructions dated 31.01.2006, instant petition has been filed by the petitioner.

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 i.e. 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 that similar benefit has been denied to the present petitioner who has already been forcibly retired and the said action is illegal, arbitrary and unconstitutional and prays that the petitioner be treated on duty till the age of 60 years i.e. upto 29.02.2024 and all consequential benefits be granted to him.

4. We have heard learned counsel for the petitioner.

5. A perusal of pleadings would show that the present petition has been filed on 12.08.2024 whereas the petitioner has already been superannuated on 28.02.2022 at the age of 58 years and said order of superannuation was accepted and was never challenged by the petitioner. As per the instructions dated 31.01.2006, the age of retirement of Physically Handicapped government employee was raised from 58 years to 60 years, whereas, petitioner has already been retired at the age of 58 years and now he cannot claim parity with other similarly situated employees on the ground

of discrimination as neither the order of superannuation was challenged by the petitioner nor he approached this Court well within time and this petition has been filed after a gap of 2 and a half years of being superannuated from the said post. In that case, the petitioner is not entitled for any relief. The conduct of the petitioner shows that he remained silent for two and a half years and is a fence sitter who woke up to claim the benefit being a similarly situated employee, the said plea of the petitioner is not tenable as the petitioner has approached this Court at belated stage where he has already been superannuated and his claim is hit by principle of delay and laches.

6. In the light of above, this petition is misconceived and being devoid of any merits, the same is dismissed in limine.

7. Dismissed.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

15.10.2024
Nisha Yadav

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No