

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

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CWP-26136-2022 (O&M)
Date of decision: 06.03.2024

Pritam Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Kapil Kakkar, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

AMAN CHAUDHARY, J

1. The prayer in the present Civil Writ Petition filed under Article 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari quashing the order dated 05.08.2022 (Annexure P16) whereby claim of the petitioner for even revised retiral benefits by extending the enhancement of retirement age from 60 years to 62 years being physically challenged person has been rejected.

2. Learned counsel would contend that the petitioner, who is 50% physically handicapped person (locomotor) and also belongs to SC category, was appointed as Ward Attendant (Class-IV post) way back on 16.04.1979. He was thereafter promoted to the post of Medical Lab Technician (Grade-II) Class-3 post. He superannuated on 05.11.2017 on attaining the age of 60 years. As per Instructions dated 19.11.2014 (Annexure P7) issued on the basis of judgment passed in **Government of Punjab and others vs. Bhupinder Singh and others, SLP No.10610 of 2013**, in terms of Provisions of Section 33 of the Person with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995 and 22.05.2017 (Annexure P12), the petitioner was entitled to grant an

extension of 2 more years. However, the claim of the petitioner was declined on the ground that as per report of District Hospital, Sri Fatehgarh Sahib, the request for receiving disability allowance with interest for two years was not received by the said office. In this regard, submission made was that there is no requirement in the policy for making any request for the said purpose. A reference by the learned counsel is made to the judgment in case of **Dr. Jagjivan Singh vs. State of Punjab and others, 2016(4) SCT 421** (Annexure P11) which was implemented vide order dated 30.09.2019 (Annexure P17). The pick and chose policy was adopted in the case of petitioner. He on instructions from the petitioner, restricts his claim for considering the said period of two years only for the purpose of retiral benefits does not seek the salary for the said period.

3. It would be worthwhile to make a reference to the judgment rendered in the case of CWP-3974-2012 titled as **Harbhajan Singh vs. State of Punjab and others**, decided on 18.09.2015, wherein the petitioner, a handicapped employee on account of having suffered an injury on his left leg in an accident, had sought direction to the respondents to extend the date of superannuation, it was observed and held thus:

“Counsel for the petitioner has placed on record the order dated 18.03.2015 (Annexure P-13) whereby, Principal Secretary, Government of Punjab, Department of Education and School, in view of the case of Kailash Chander Sharma, has granted all financial benefits to a similarly situated employee by noticing that the Department of Finance had recommended that all financial benefits have to be given. The relevant portion reads thus:-

“3. That after dismissal of SLP filed by Govt. of Punjab in the Hon'ble Supreme Court of India the personnel department issued the directions through letter no. 17/20/2010-2PP2/132 dated 18.11.2014. According to those directions the age of superannuation of all the categories of handicapped persons is enhanced from 58 years to 60 years. This petitioner had been retired on 30.04.2012 after attaining the age of 58 years. Therefore

the advice was sought from Department of Finance that after the completing the age of 58 years whether all the financial benefits are to be given to the petitioner upto the age of 60 years or only notional benefits are to be given. The Department of Finance informed through letter no. 10/12/2015-3 XX (written in Punjabi) 2/432712/1 dated 10.03.2015 that in view of the order dated 16.09.2014 passed by the Hon'ble Supreme Court of India in SLP no. 10610 of 2013 the petitioner may be given all the financial benefits from 01.05.2012 to 30.04.2014 on attaining the age of 60 years instead of 58 years.

4. In view of aforesaid facts came on record myself C. Roul, Principal Secretary, Department of Education, Govt. of Punjab being a competent officer reached on the conclusion that as per the instructions vide dated 19.11.2014 of personnel department the age of the superannuation of Sh. Kailash Chander Sharma District Science Supervisor, Amritsar is fixed 60 years instead of 58 years. He would be entitled to all the financial benefits since 01.05.2012 to 30.04.2014 after attaining the age of 58 years meaning thereby that till he attains the age of 60 years he is entitled to all the financial benefits.”

Counsel for the petitioner has further brought to the notice of this Court that in similarly situated cases, the Principal Secretary has also recalled his earlier order dated 15.04.2013 and granted all financial benefits to one Jarnail Singh and Kulwant Kaur, who retired on 31.03.2012 and 31.08.2012 on attaining the age of superannuation of 58 years vide order dated 13.03.2015. The issue was discussed threadbare and the said benefit was given. Similarly, one Surinder Kaur was granted the similar benefit by the Director, Public Instructions (S.E.) on 13.07.2015.

Thus, it is apparent that the State is taking two different stands and denying the relief in one case and while granting the benefit in another, which is not permissible and is violative of Article 14 of the Constitution of India.

Resultantly, the present writ petition is allowed and order dated 21.07.2015 (Annexure R-1) is quashed and the respondents are directed to grant the petitioner all financial benefits from 01.05.2012 to 30.04.2014. Since the petitioner has already been granted pension, the necessary adjustments will be made for the amounts which the petitioner has already received during this period. The State shall

ensure that in similarly situated cases, benefits are not denied to such handicapped employees as the issue stands conclusively decided.”

4. Learned State counsel is unable to rebut the factual position in this matter and cite any contrary law.
5. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Harbhajan Singh** (supra) and as per statement of learned counsel for the petitioner, restricting the claim, the respondents are directed to recalculate his pensionary benefits taking into account the period of extension and release the same within a period three months.

06.03.2024
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No