

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

228

CWP-32624-2019 (O&M)
Decided on : 16.04.2024

KAWALJIT SINGH

...Petitioner

Versus

STATE OF HARYANA & OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Ms. Gurjit Kaur Sandhu, Advocate for
Mr. H. S. Sandhu, Advocate for the petitioner
(Joined through video conferencing).

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that the petitioner was enrolled as a volunteer in the Home Guards, Haryana in January, 2003. The petitioner kept on performing the duties as volunteer and he was promoted to the post of Section Leader on 24.02.2008.

2. While on duty, the petitioner suffered a paralytic attack and during the treatment, the petitioner was declared as 50% physically handicapped (Annexure P-2). Thereafter, the petitioner requested to the respondents that he should be given other duty to be performed by the Home Guards volunteer but rather than, accepting the prayer of the petitioner, the petitioner was relieved from the service by the respondents.

3. The prayer of the petitioner is that keeping in view **Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995**, the respondents were under an obligation to depute the petitioner on a suitable post and in case, there is no such post available in the department of Home Guards the emoluments being paid to

the petitioner should have been extended to the petitioner.

4. Learned counsel for the respondents on the other hand submits that the post of Home Guard is a volunteer job but conceded the fact that the petitioner suffered a paralytic attack while on duty, but keeping in view the fact that the job is of a volunteer nature, the petitioner could not be accommodated on any other post in the department of Home Guards, Haryana.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Though, it is a conceded fact that while working in the Home Guards, Haryana, the petitioner to be treated as a volunteer. Further, during the service period, the petitioner has only suffered 50 % disability (Annexure P-2) and he is still able to perform certain duties. The question which needs to be answered is as to whether respondents are under an obligation to comply with **Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation), Act, 1995** in the facts and circumstances of the present case.

7. Once, it is a conceded fact that while working as a volunteer in the Home Guards, Haryana honorarium is being paid to the petitioner, keeping in view the Section 47 of the 1995 Act which protects the employees who acquire the disability during the service, the said section should be made applicable upon all the volunteers also who are getting remuneration for the work performed by them.

8. Nothing has come on record that the petitioner could not have been adjusted on any other post in the Home Guard itself so that he is able to continue to get the honorarium, hence, keeping in view the facts and circumstances of the present case recorded herein above, the present petition

is disposed of with the direction to the respondents to find a suitable post keeping in view the disability of the petitioner and the petitioner be allowed to discharge the duty on the said suitable post till he attains the age of superannuation, in case the work of the petitioner remains satisfactory. In case, petitioner cannot be accommodated on any other post, then, an appropriate speaking order should be passed with due reasons for not granting the relief to the petitioner.

9. Let the present order be complied within the period of eight weeks from the date of receipt of copy of this order.
- 10 The present petition disposed of in the above terms.
11. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

16.04.2024
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Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: ~~Yes~~/No