



CWP-17151-2021

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

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CWP-17151-2021 (O & M)
Date of decision: 21.01.2025

Babaljit Singh

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Dhiraj Chawala, Advocate for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing the order dated 18.12.2018 only to the extent that the petitioner is entitled to the salary from the date of suffering the disability i.e. 21.09.2012, instead of 28.06.2017, the date on which certificate was issued by the Civil Surgeon.
2. The petitioner joined as a Clerk on 28.09.2011, but unfortunately diagnosed with hyposix ischaemic injury and admitted in Dayanand Medical College & Hospital, under entry No.5030/2012, on account whereof he could not perform his duties. The medical leave till 31.03.2013 as applied was allowed, however, w.e.f. 16.04.2013 without pay, whereafter he was issued a charge sheet on 14.12.2015 for absence from duty which was finally dropped, vide order dated 27.11.2017 (Annexure P-8), relevant portion whereof reads thus:

“Sh. Babaljit Singh, Clerk, Govt. High School, Jalalpur Awana, District Ludhiana was issued charge-sheet unofficially due to absent from duty vide order dated 24.05.2015. District Education Officer (S), Ludhiana was



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appointed enquiry officer to enquire into the charges leveled against him. The enquiry officer has come to conclusion from the enquiry report that the above employee is suffering from illness from 21.09.2012. In Information regarding illness of the employee, Sh. Makhan Singh father of the official was sent the information time to time to the Headmaster, Govt. High School, Jamalpur Awana (Ludhiana). In addition to it, Head of school at that time medical leave commuted leave from 21.09.2012 to 01.04.2013 was submitted. As per report of Civil Surgeon the employee was declared 80% handicapped.

Under Section 47 of “The person with disabilities (Equal Opportunities Protection of Right and Full Participation Act, 1995”, I, Paramjit Singh, PCS, Director Education Department (SS), Punjab, the charge is filed on the basis of sympathy and due leave is sanctioned. If no leave is due, then half pay leave is granted.”

3. Recognizing the obligation of the State to remunerate disabled employees in **Joginder Kaur vs. State of Punjab**, CWP-20420-2018, to which there was no challenge laid, this Court held the petitioner entitled to the salary of her husband, from the date that he acquired the disability while in service on account of being afflicted by brain tumor and consequent mental illness, as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995, relevant of which reads thus:

“7. Thus, it is the liability of the State to pay the salary to an employee who has become disabled while in service and his services cannot be dispensed with.

8. In the circumstances, therefore, salary of the petitioner’s deceased husband has to be paid from the day he became mentally ill i.e. from the year 2008 and it cannot be converted into the leave without pay.

9. In view thereof, the Writ Petition is allowed and respondents are directed to release the salary of the petitioner’s deceased husband w.e.f. 03.07.2008 to 29.05.2009 and 10.07.2009 to 04.10.2013 to the petitioner, who is the wife of the deceased employee, within a period of 4 months henceforth. It is clarified that no interest is required



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to be paid by the respondents.”

4. In the same vein, salary and allowance w.e.f. 08.05.2015 to 20.06.2017 were allowed to the claimant on account of permanent physical impairment of 75% due to HCM disease by this Court in **Kulbir Jakhar vs. State of Haryana and others**,¹ relevant paras whereof read thus:

“7. In view of the fact that the petitioner, admittedly, as per the learned Board of Doctors, is absolutely unable to perform any work at all, therefore in terms of Section 47 of the Rights of Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 and Sections 3 and 34 (and 38) of The Rights of Persons with Disabilities Act, 2016, he would, in the opinion of this court, be entitled to salary for the entire period, he also being a person with high support needs.

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9. Thus, with the petitioner having been unfortunately disabled since about April, 2015, first Section 47 of the Act of 1995 would have become applicable to him and thereafter with the Act of 2016 having come into effect from 27.12.2016, the provisions of that Act would be applicable, with obviously, in the opinion of this court at least, the rights that had already accrued to him under the old Act, not to be taken away from him.”

5. Learned State counsel despite best efforts has been unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

6. In view of the aforesaid, the present petition is disposed of in terms of **Joginder Kaur** (supra).

21.01.2025

parveen kumar

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

(AMAN CHAUDHARY)
JUDGE

¹ 2021(3) Law Herald 1884