

**CWP-11957-2025 CWP-15854-2025 &****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****233+130****CWP-11957-2025****Date of Decision: 28.05.2025****Varinder Kumar****...Petitioner****Versus****State of Punjab and others****...Respondents****And****CWP-15854-2025****Kuldeep Sharma alias Kuldip Kumar****...Petitioner****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL****Present: - Mr. Kushagra Mahajan, Advocate for the petitioner
(in CWP-11957-2025)****Mr. Dilpreet Singh Gandhi, Advocate for the petitioner
(in CWP-15854-2025)****Mr. Aman Dhir, Deputy Advocate General, Punjab***********JAGMOHAN BANSAL, J. (Oral)**

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from *CWP-11957-2025*.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated



04.02.2025 (Annexure P-4) whereby respondent No.3-Senior Superintendent of Police, Amritsar Rural has refused to extend his service tenure.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner, during the course of employment, suffered from physical disability and lost his one leg. He falls within the definition of '*person with disability*' as defined in Rights of Persons with Disabilities Act, 2016 (for short '**2016 Act**'). He attained the age of 55 years on 04.02.2024. He was granted one year extension which expired on 04.02.2025. The respondent has refused to grant him extension on the ground that he is suffering from disability and cannot perform duties of an Assistant Sub-Inspector. The act of the respondent is in gross violation of mandate of Section 20 of 2016 Act.

4. Reply by way of affidavit dated 26.05.2025 of Mr. Gurmeet Singh, P.P.S., Superintendent of Police, District Amritsar Rural filed on behalf of respondent Nos.1 to 4 is taken on record. Registry is directed to tag the same at an appropriate place.

5. Learned State counsel submits that petitioner has not suffered disability while on duty, thus, he cannot claim benefit of Section 20(4) of 2016 Act. Rule 9.14 and 9.16 of Punjab Police Rules, 1934 (for short '**PPR**') provides for invalidation of an employee. The petitioner is suffering from disability, thus, he has been invalidated.

6. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

7. Section 20 of 2016 Act deals with status of employees who are suffering from disabilities. For ready reference Section 20 of 2016 Act is reproduced as under: -



“20. Non-discrimination in employment.

(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.”

8. From the perusal of Sub-Section (4) of Section 20 of 2016 Act, it is quite lucid that no person with disability can be dispensed with or reduced in rank who has acquired disability during his service. The employer is required to make arrangement for suitable post if he is unable to work on the post he was holding at the time of disability. If it is not possible to adjust against any post, he would be kept on supernumerary post until a suitable post is made available or he attains the age of superannuation.



9. In the case in hand, the respondent granted one year extension to the petitioner on attaining the age of 55 years. By extending his service for one year, the respondent practically accepted that petitioner is physically and mentally fit for the job. 2016 Act is a special Act, which is made for the protection and welfare of persons suffering from disabilities. Concededly, the petitioner is suffering from physical disability and he falls within the definition of 'person with disability' in terms of 2016 Act. The respondent is relying upon PPR which are general in nature whereas 2016 Act is a special statute. It is settled proposition of law that special Act overrides general Act and special provision prevails over general provisions. The respondent is bound to take care of Section 20 of 2016 Act and cannot rely upon Rule 9.14 and 9.16 of PPR.

10. In the wake of above discussion and findings, this Court is of the considered opinion that present petitions deserve to be allowed and accordingly allowed. Impugned order dated 04.02.2025 (Annexure P-4) is hereby set aside and respondent is directed to reconsider claim of the petitioners within two weeks from today.

11. Needless to mention, the respondent while passing fresh order shall keep in mind mandate of Section 20 of Rights of Persons with Disabilities Act, 2016.

(JAGMOHAN BANSAL)
JUDGE

28.05.2025

Mohit Kumar

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