2026:PHHC:066871

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

254 (2nd case)+257+258

Date of decision:30.03.2026

(i) **CWP-8961-2026**

Shayam Lal Sharma

.....Petitioner

VERSUS

Uttar Haryana Bijli Vitran Nigam

.....Respondent

(ii) CWP-9037-2026

Kartar Singh

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

(iii) CWP-8328-2026

Sunhera Singh

.....Petitioner

VERSUS

Dakshin Haryana Bijli Vitran Nigam and another

.....Respondents

2026:PHHC:066871

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Vikas Chatrath, Senior Advocate
with Mr. Anirudh Malhan, Advocate,
Mr. Abhishek Sharma, Advocate,
Ms. Preet Arora, Advocate,
Ms. Rishita Kaushik, Advocate,
and Ms. Navdita Rathore, Advocate
for the petitioner in CWP-8328-2026.

Ms. Anju Bansal, Advocate
for the petitioner in CWP-8961-2026.

Mr. Mohnish Sharma, Advocate,
for the petitioner in CWP-9037-2026.

Mr. Prince Singh, Advocate
with Mr. Sukhdeep Parmar, Advocate
for the respondents in CWP-8328-2026,
CWP-8961-2026 and respondents No.2 to 7 in
CWP-9037-2026.

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HARPREET SINGH BRAR, J. (Oral)

1. This common order shall dispose of all the aforementioned writ petitions as they arise from a similar factual matrix and pose identical question of law. However, for the sake of brevity, the facts are taken from CWP-8961-2026.

2. The present petition has been preferred under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *Certiorari* for quashing the impugned order dated 13.03.2026 (Annexure P-5) passed by respondent No.3 whereby the petitioner was retired from service. Further, a prayer has been made for issuance of a writ in the nature of *Mandamus*

directing the respondents to allow the petitioner to continue in service up to the age of 60 years with consequential benefits arising therefrom.

FACTUAL BACKGROUND

3. The petitioner was initially appointed as a Lower Division Clerk (LDC) on 06.10.1997 with the Haryana State Electricity Board (HSEB). Upon trifurcation of the HSEB, the petitioner was placed with the respondent-UHBVN. Thereafter, he was promoted to the post of Upper Division Clerk (UDC) w.e.f. 01.01.2011. The petitioner suffers from a locomotive disability, assessed at above 85%. Since he falls under the category of physically disabled person, he was promoted to the post of Assistant vide order dated 08.02.2023 against roaster point 67 cycle 5.

4. In view of his disability, the petitioner requested for an extension in service for 02 years i.e. till the age of 60 years, in terms of Rule 143 (1)(i) of the Haryana Civil Services (General) Rules, 2016 (hereinafter 'HCSR'). The said benefit was granted to him vide order dated 20.11.2024 (Annexure P-2). However, the Government of Haryana issued a notification dated 03.02.2026 whereby Rule 143 of the HCSR was amended and the provision for extension in the age of superannuation for persons with disabilities, was omitted. The said notification was adopted by the respondent-UHBVNL vide its letter dated 19.02.2026. Subsequently, the

petitioner was retired from service vide impugned order dated 13.03.2026 (Annexure P-5). Aggrieved by the same, the present petition was preferred.

CONTENTIONS

5. At the outset, learned counsel for the respondent(s) submit that the issue raised in the present writ petition(s) regarding prospective application of notification dated 03.02.2026 is no longer *res integra.* The Division Bench of this Court in ***CWP-5224-2026*** titled as ***Rajnish Kumar and others vs. State of Haryana and others*** *decided on 10.03.2026* has categorically held that in view of the amendment to Rule 143 of the HCSR, which came into force on 03.02.2026, no existing employee with disabilities can claim an extension of service to the age of 60 years. As such, the present writ petition(s) are squarely covered by ***Rajnish Kumar(supra)*** and thus, do not merit interference by this Court.

6. *Per contra,* learned counsel for the petitioner in CWP-8961-2026 assails the argument put forth by learned counsel for the respondent(s) and submits that by virtue of Rule 143 of the HCSR, the age of superannuation for employees with a disability to the extent of 70% or more as well as blind employees, was increased from 58 years to 60 years. In furtherance of the same, vide order dated 20.11.2024 (Annexure P-2), the service tenure of the petitioner was enhanced by 02 years i.e. till he attains the age of 60 years. The new date of retirement of the petitioner was

officially recorded as 31.01.2027, thereby crystallizing the rights of the petitioner. However, in view of the said amendment, the petitioner has been erroneously retired from service vide impugned order dated 13.03.2026 (Annexure P-5).

7. Learned Senior Counsel for the petitioner in CWP-8328-2026 submits that the notification dated 03.02.2026 does not bestow a retrospective effect on the amendment to Rule 143, HCSR and thus, must only be applied prospectively. For ready reference, the unamended Rule 143, HCSR and the notification dated 03.02.2026 are reproduced below:

Rule 143(1), HCSR (Unamended)

> ***"143. Retirement on superannuation.—***
>
> *(1) Except as otherwise provided in these rules, every Government employee shall retire from service on afternoon of the last day of the month in which he attains the age of retirement prescribed for him or for the post held by him in substantive or officiating capacity, as the case may be. However, a Government employee whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the prescribed age. The age of retirement on superannuation is fifty eight years for all groups of employees except the following for whom the same is sixty years:-*
>
> *(i)* ***Differently-abled employees having minimum degree of disability of 70% and above****;*
>
> *(ii)* ***Blind employees****;*
>
> *(iii) Group 'D' employees; and*
>
> *(iv) Judicial Officers.*

No Government employee shall be retained in service after attaining the age of superannuation, except in public interest and in exceptional circumstances, without the approval of Council of Ministers.

Note 1.— *One eyed employee shall not be treated as blind or differently-abled person for the purpose of this rule.*

Note 2.— *When a Government employee is due to retire on superannuation from service an office order shall be issued on 7th of the month in which he is going to be retired and a copy of every such order shall be forwarded immediately to the Principal Accountant General, Haryana. There is no need to re-instate a Government employee who is under suspension at that time.*

Note 3.— *A Government employee who becomes disabled while in service shall bring to the notice of his Head of Department minimum three months before attaining the age of 58 years. He shall be got examined from a Medical Board of the Post Graduate Institute of Medical and Science, Rohtak to be headed by its Director. On receipt of medical report from the Board, the appointing authority or the Head of Department, whichever is higher, shall take a final decision to grant or not to grant the extension in service to such physically disabled employee."*

<u>Notification dated 03.02.2026</u>

"Notification

The 3rd February, 2026

NO.11/58/2023-1FR/27758.- In exercise of the powers conferred under the proviso to Article 309 of the Constitution of India, the Governor of Haryana hereby makes the following rules further to amend the Haryana Civil Services (General) Rules, 2016, namely:-

(1) These rules may be called Haryana Civil Services (General) Amendment Rules, 2026.

(2) They shall come into force with effect from the date of their publication in the Official Gazette.

In the Haryana Civil Services (General) Rules, 2016, ***Rule 143, in sub-rule(1) clause (i), clause (ii), Note 1 and 3, shall be omitted****."*

(emphasis added)

8. He further submits that nothing in the notification (supra) indicates, explicitly or by necessary implication, that the amendment shall have a retrospective effect. The cardinal principles of construction dictate that unless stated otherwise, an amendment shall be deemed to have prospective effect only, especially when it seeks to divest one of any vested rights. A three-Judge bench of the Hon'ble Supreme Court in ***Ex-Capt. K.C. Arora and another vs. State of Haryana and others AIR 1987 SC 1858*** has categorically held that where every statute is *prima facie* prospective unless it affirms retrospective application, expressly or by necessary implication. Speaking through Justice R.B. Misra, the following was held:

> *"15. It may be pointed out at the very outset that the Parliament as also the State Legislature have plenary powers to legislate within the field of legislation committed to them and Subject to certain constitutional restrictions they can legislate prospectively as well as retrospectively.* ***It is, however, a cardinal principle of construction that every statute is prima facue prospective unless it is expressly or by necessary implication made to have retrospective effect. But the rule in general is applicable where the object of the statute is to affect the vested rights or to impose new burden or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the legislature to affect existing rights it is deemed to be prospective only. Provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment.*** *The Governor can also exercise the same powers under*

2026:PHHC:066871

Article 309 of the Constitution and there is not the slightest doubt that the impugned amendment brought in has been made retrospective. The impugned amendments in the instant case by necessary implication have undoubtedly a retrospective effect.

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*23. In view of this latest pronouncement by the Constitution Bench of this Court, the law appears to, be well settled and **the Haryana Government cannot take away the accrued rights of the petitioners and the appellants by making amendment of the rules with retrospective effect.**"*

(emphasis added)

Reliance in this regard is also placed on the judgments rendered by the Hon'ble Supreme Court in ***S.R. Bhagwat vs. State of Mysore (1995) 6 SCC 16***, ***Bishny Narain Misra vs. State of Uttar Pradesh AIR 1965 SC 1567*** and ***K. Nagaraj and others vs. State of Andhra Pradesh and another (1985) 1 SCC 523***.

9. Learned Senior counsel further refers to the judgment rendered by a two Judge bench of the Hon'ble Supreme Court in ***Punjab State Cooperative Agricultural Development Bank Ltd. vs. Registrar, Cooperative Societies and others (2022) 4 SCC 363***, and submits that depriving an employee of his accrued or vested rights because of retrospective operation of an amendment, is violative of Articles 14 and 16 of the Constitution of India. Speaking through Justice Ajay Rastogi, the following was opined:

"47. The exposition of the legal principles culled out is that ***an amendment having retrospective operation which has the effect of taking away the benefit already available to the employee under the existing rule indeed would divest the employee from his vested or accrued rights and that being so, it would be held to be violative of the rights guaranteed under Articles 14 and 16 of the Constitution.***

48. In the instant case, the Bank pension scheme was introduced from 1st April 1989 and options were called from the employees and those who had given their option became member of the pension scheme and accordingly pension was continuously paid to them without fail and only in the year 2010, when the Bank failed in discharging its obligations, respondent employees approached the High Court by filing the writ petitions. The Bank later on withdrawn the scheme of pension by deleting clause 15(ii) by an amendment dated 11th March, 2014 which was introduced with effect from 1st April, 1989 ***and the employees who availed the benefit of pension under the scheme, indeed their rights stood vested and accrued to them and any amendment to the contrary, which has been made with retrospective operation to take away the right accrued to the retired employee under the existing rule certainly is not only violative of Article 14 but also of Article 21 of the Constitution.***

49. It may also be noticed that there is a distinction between the legitimate expectation and a vested/accrued right in favour of the employees. The rule which classifies such employee for promotional, seniority, age of retirement purposes undoubtedly operates on those who entered service before framing of the rules but it operates in futuro. In a sense, it governs the future right of seniority, promotion or age of retirement of those who are already in service."

(emphasis added)

10. Learned Senior counsel also argues that the judgment in ***Kashmiri Lal Sharma vs. Himachal Pradesh State Electricity Board Ltd. 2025 SCC OnLine SC 1355***, is not applicable to the matter at hand, as the

2026:PHHC:066871

accrued and vested rights of the petitioner had already crystallized, when he was granted an extension vide order dated 20.11.2024 (Annexure P-2), much prior to the notification dated 03.02.2026 coming into force.

11. Reliance is also placed on the judgment rendered by a two Judge Bench of the Hon'ble Supreme Court in ***V. Vincent Velankanni vs. Union of India and Others 2024 SCC OnLine SC 2642*** wherein, speaking through Justice Sandeep Mehta, made the following observations in this regard:

> *"43. If a Government Order is treated to be in the nature of a clarification of an earlier Government Order, it may be made applicable retrospectively. Conversely*, ***if a subsequent Government Order is held to be a modification/amendment of the earlier Government Order, its application would be prospective as retrospective application thereof would result in withdrawal of vested rights which is impermissible in law and the same may also entail recoveries to be made.*** *The principles in this regard were culled out by this Court in a recent judgment of Sree Sankaracharya University of Sanskrit v. Dr. Manu, in the following terms:—*
>
> *"52. From the aforesaid authorities, the following principles could be culled out:*
>
> *i) If a statute is curative or merely clarificatory of the previous law, retrospective operation thereof may be permitted.*
>
> *ii)In order for a subsequent order/provision/amendment to be considered as clarificatory of the previous law, the pre-amended law ought to have been vague or ambiguous. It is only when it would be impossible to reasonably interpret a provision unless an amendment is read into it, that the amendment is considered to be a clarification or a declaration of the previous law and therefore applied retrospectively.*
>
> *iii) An explanation/clarification may not expand or alter the scope of the original provision.*
>
> *iv) Merely because a provision is described as a clarification/explanation, the Court is not bound by the said*

statement in the statute itself, but must proceed to analyse the nature of the amendment and then conclude whether it is in reality a clarificatory or declaratory provision or whether it is a substantive amendment which is intended to change the law and which would apply prospectively."

(emphasis added)

11.1. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Sree Sankaracharya University of Sanskrit vs. Manu (2023) 19 SCC 30,*** while speaking through Justice. B.V. Nagarathna, opined as follows:

> ***"38.4.*** *Merely because a provision is described as a clarification/explanation, the Court is not bound by the said statement in the statute itself, but must proceed to analyse the nature of the amendment and then conclude whether it is in reality a clarificatory or declaratory provision or whether it is a substantive amendment which is intended to change the law and which would apply prospectively."*

11.2. At this juncture, learned Senior counsel submits that a reference may also be made to the judgements rendered by the Hon'ble Supreme Court in ***Union of India vs. Martin Lottery Agencies Ltd. (2009) 12 SCC 209*** and ***Hitendra Vishnu Thakur vs. State of Maharashtra (1994) 4 SCC 602***.

11.3. The aforementioned position of law has also been approved by judgement rendered by two Full Benches of this Court in ***Parshotam Dass vs. State of Haryana 2003 (4) RCR (Civil) 73*** and in ***Kaka vs. Hassan Bano 1998(1) RCR (Criminal) 484.*** Speaking through Justice Swatanter Kumar, the following observations were made in ***Kaka (supra):***

> *"28. …This rule is however, subject to a well recognised principle* ***<u>that the benefits acquired under the existing rules cannot</u>***

__be taken away by an amendment with retrospective effect, that is to say, there is no power to make such a rule under the proviso to Article 309 which affects or impairs vested rights__. Therefore, unless it is specifically provided in the rules, the employees who are already promoted before the amendment of the rules cannot be reverted and their promotions cannot be recalled. In other words, such rules laying down qualifications for promotion made with retrospective effect must necessarily satisfy the test of Articles 14 and 16(1) of the constitution : ***State of Mysore v. M.N. Krishna Murty, (1973) 2 SCR 575 : AIR 1973 Supreme Court 1146, B.S. Yadav v. State of Punjab, (1981) 1 SCR 1024 : AIR 1981 Supreme Court 561, State of Gujarat v. Ramanlal Keshavlal Soni, (1983) 2 SCR 287 : AIR 1984 Supreme Court 161*** *and* ***KC Arora v. State of Haryana, (1984) 3 SCR 623: 1984 Lab. IC 1015****."*

(emphasis added)

12. Learned Senior counsel raised a specific argument that since this settled principle of law has not been considered in ***Rajnish Kumar (supra)***, it is rendered *per incurium.* He further submits that ***Rajnish Kumar (supra)*** was also decided *sub silentio*, without consciously determining the scope of application of the amendment to Rule 143 of the HCSR brought about by notification dated 03.02.2026. As such, considering that the notification dated 03.02.2026 was denied prospective application without argument and without reference to the settled law, the finding rendered in this regard in ***Rajnish Kumar (supra)*** lacks precedential value. A two Judge bench of the Hon'ble Supreme Court in ***State of U.P. vs. Synthetics and Chemicals Ltd. 1991 INSC 159***, speaking through Justice R.M. Sahai, made the following observations in this regard:

"41. Does this principle extend and apply to a conclusion of law, which was neither raised nor preceded by any consideration. In other

words can such conclusions be considered as declaration of law, Here again the English courts and jurists have carved out an exception to the rule of precedents. It has been explained as rule of sub-silentio. ***"A decision passes sub-silentio, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the court or present to its mind."*** *(Salmond on Jurisprudence 12th Edn., p. 153). In* ***Lancaster Motor Company (London) Ltd. v. Bremith Ltd., (1941) 1 KB 675, 677 : (1941) 2 All England Reporter 11*** *the Court did not feel bound by earlier decision as it was rendered 'without any argument, without reference to the crucial words of the rule and without any citation of the authority'. It was approved by this Court in* ***Municipal Corporation of Delhi v. Gurnam Kaur., (1989) 1 SCC 101****. The bench held that,* ***'precedents sub-silentio and without argument are of no moment'. The courts thus have taken recourse to this principle for relieving from injustice perpetrated by unjust precedents. A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141.*** *Uniformity and consistency are core of judicial discipline. But that which escapes in the judgment without any occasion is not ratio decidendi. In* ***B. Shama Rao v. Union Territory of Pondicherry, AIR 1967 Supreme Court 1480 : (1967) 2 SCR 650 : 20 STC 215*** *it was observed, 'it is trite to say that a decision is binding not because of its conclusions but in regard to its ratio and the principles, laid down therein'.* ***Any declaration or conclusion arrived without application of mind or preceded without any reason cannot be deemed to be declaration of law or authority of a general nature binding as a precedent.*** *Restraint in dissenting or overruling is for sake of stability and uniformity but rigidity beyond reasonable limits is inimical to the growth of law.*

42. Effort was made to support the conclusion, indirectly, by urging that the State having raised same objections by way of review petition and the same having been rejected it amounted impliedly as providing reason for conclusion. ***Law declared is not that can be culled out but that which is stated as law to be accepted and applied. A conclusion***

2026:PHHC:066871

<u>without reference to relevant provision of law is weaker than even casual observation.</u> *In the order of Brother Thommen, the extracts from the judgment of the Constitution Bench quoted in extenso demonstrate that the question of validity of levy of sales and purchase tax was neither in issue nor was it raised nor is there any discussion in the judgment except of course the stray argument advanced by the learned Attorney General to the following effect: (SCC p. 139, para 43)*

> *"But alcohol not fit for human consumption are not luxuries and as such the State legislatures, according to Attorney General, will have no power to levy tax on such alcohol."*

Sales tax or purchase tax under Entry 54 is levied on sale or purchase of goods. It does not contemplate any distinction between luxury and necessity. Luxuries are separately taxable under Entry 62. But that has nothing to do with Entry 54. What prompted this submission is not clear. Neither there was any occasion nor there is any constitutional inhibition or statutory restriction under the legislative entry nor does the taxing statute make any distinction between luxuries and necessities for levying tax. In any case the bench did not examine it nor did it base its conclusions on it. ***<u>In absence of any discussion or any argument the order was founded on a mistake of fact and, therefore, it could not be held to be law declared.</u>*** *The bench further was not apprised of earlier Constitution Bench decisions in* ***Hoechst Chemicals v. State of Bihar, (1983) 4 SCC 45*** *and* ***Ganga Sugar Mill v. State of U.P., 1980 1 SCC 223 : 1980 1 SCR 769*** *which specifically dealt with the legislative competence of levying sales tax in respect of any industry which had been declared to be of public importance. Therefore, the conclusion of law by the Constitution Bench that no sales or purchase tax could be levied on industrial alcohol with utmost respect fell in both the exceptions, namely, rule of sub-silentio and being in per incuriam, to the binding authority of the precedents."*

(emphasis added)

Reliance can also be placed on the judgment rendered by the Hon'ble Supreme Court in ***State of U.P. vs. Jeet S. Bisht 2007 INSC 656***.

13. Further still, learned Senior counsel argues that a Division Bench of this Court in ***The Punjab State Cooperative Agricultural Development Bank Ltd.and another vs. Bhupinder Sharma and another*** in ***LPA-3638-2025*** *decided on 08.01.2026* has concluded that the accrued rights of an employee cannot be dislodged by giving retrospective effect to an amendment in the applicable rules. The relevant part is reproduced below:

> *"7. …A careful perusal of the impugned judgment further reveals that the learned Single Judge held that once the writ petitioners had opted for the Pension Scheme, they acquired a vested right to pension. It was further observed that pension is not a bounty but a deferred part of service benefits and such rights cannot be taken away arbitrarily. The deletion of Rule 15 (ii) by the 2014 amendment was held not to affect employees who had earlier opted for pension, even if they retired subsequently. Further, the learned Single Judge relied upon earlier judgments upholding pensionary rights and construed the Hon'ble Supreme Court judgment dated 11.01.2022 as protecting the pension claims of all such employees. No distinction was drawn between employees who had already retired prior to the amendment and those who continued in service thereafter.*
>
> *8. In view of the foregoing discussion, we are of the considered opinion that the learned Single Judge has rightly allowed the writ petition filed by the respondents/petitioners, and the impugned judgment does not suffer from any perversity, illegality, or error warranting interference by this Court."*

13.1. However, subsequently, a contradictory view was taken by another Division Bench of this Court in ***Rajnish Kumar (supra)*** as the amendment (supra) was relied upon to dislodge the accrued rights of the employees with disabilities and it was held that no employee has any right to continue in service beyond the age of 58 years once the notification (supra) had come into force.

> *"37. In the instant case, we may take note that by virtue of interim orders passed by this Court, several employees are continuing to work, even after coming into force of the impugned notification, despite having attained the age of 58 years. Under such circumstances, we hold that all such employees who have crossed the age of 58 years, shall be entitled to protection of service benefits, like salary, pension, etc. till the date of their working. However, on account of the amendment in Rule 143 coming into force on 03.02.2026, no existing employee can claim to continue till the age of 60 years."*

13.2. Learned Senior counsel argues that since two benches of co-equal strength have taken contrary approaches with respect to crystallization of vested rights of an employee, the judgment rendered prior in time ought to be followed by this Court, in terms of the judgment rendered by the Constitution Bench of the Hon'ble Supreme Court in ***National Insurance Company Limited vs. Pranay Sethi and others (2017) 6 SCC 680.*** Speaking through Justice Dipak Misra, the following was concluded therein:

> *"29. We are compelled to state here that in* ***Munna Lal Jain (supra)****, the three-Judge Bench should have been guided by the principle stated in* ***Reshma Kumari*** *which has concurred with the view expressed in* ***Sarla Devi*** *or in case of disagreement,* ***<u>it should have been well advised to refer the case to a larger Bench.</u>*** *We say so, as we have already expressed the opinion that the dicta laid down in* ***Reshma Kumari*** *being earlier in point of time would be a binding precedent and not the decision in Rajesh.*

2026:PHHC:066871

30. In this context, we may also refer to ***Sundeep Kumar Bafna v. State of Maharashtra and another, 2014(2) RCR (Criminal) 416 : 2014(2) Recent Apex Judgments (R.A.J.) 572 : (2014) 16 SCC 623*** *which correctly lays down the principle that discipline demanded by a precedent or the disqualification or diminution of a decision on the application of the per incuriam rule is of great importance, since without it, certainty of law, consistency of rulings and comity of courts would become a costly casualty. A decision or judgment can be per incuriam any provision in a statute, rule or regulation, which was not brought to the notice of the court. A decision or judgment can also be per incuriam if it is not possible to reconcile its ratio with that of a previously pronounced judgment of a coequal or larger Bench*<u>***. There can be no scintilla of doubt that an earlier decision of co-equal Bench binds the Bench of same strength.***</u> *Though the judgment in Rajesh's case was delivered on a later date, it had not apprised itself of the law stated in* ***Reshma Kumari (supra)*** *but had been guided by* ***Santosh Devi (supra).*** *We have no hesitation that it is not a binding precedent on the co-equal Bench."*

14. Further still, learned counsel for the petitioner in CWP-9037-2026 submits that vide notification dated 03.02.2026, the benefit of extension of age of superannuation has only been withdrawn with respect to persons with disabilities while the same is still available to Judicial Officers and Group D employees. Tritely, it is essential that there must be a link or causal connection between the basis of the classification and the objective it seeks to achieve. However, it remains unclear as to what objective this decision of the State Government is seeking to achieve by excluding persons with disabilities from the purview of Rule 143, HCSR. In order to pass the test of reasonable classification, two conditions must be fulfilled- (i) that the classification must be founded on an intelligible differentia which

distinguishes persons or things that are grouped together from those that are left out of the group; and (ii) that that differentia must have a rational relation to the objects sought to be achieved by such classification. Learned counsel submits that the amendment brought to Rule 143, HCSR fails to satisfy the test of reasonable classification and thereby falls foul of Article 14 of the Constitution of India.

15. Furthermore, the Division Bench of this Court in ***Jora Singh vs. State of Haryana 2025 NCPHHC 155797*** had merely confined its observations to the fact that the rationale behind restricting the said benefit to blind employees or the employees having disability of 70% or above, remains unexplained. It was also stated that such classification within the homogenous class of employees with benchmark disability of 40% or above, as provided under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995(hereinafter 'Act of 1955') and the Rights of Persons with Disabilities Act, 2016 (hereinafter 'Act of 2016'), is neither based on any intelligible differentia nor does it seek to achieve any valid object. However, it was only clarified that the State of Haryana could take a conscious decision regarding extending the benefit of enhanced age of superannuation to persons with disabilities. In furtherance of the same, the notification dated 03.02.2026 was passed whereby persons with disabilities were excluded from the purview of Rule

2026:PHHC:066871

143, HCSR as a whole. In doing so, the Government of Haryana has undermined the constitutional promise to provide persons with disabilities a life of dignity and equal opportunities in all spheres. Additionally, nothing has been brought to the fore to indicate any rationale behind withdrawing the said benefit for persons with disabilities, particularly in light of Act of 2016 and the judgment of the Hon'ble Supreme Court in ***State of Punjab and others vs. Bhupinder Singh and others*** in ***Civil Appeal No.8855 of 2013 (Arising from SLP No.10610 of 2013).***

16. Lastly, learned counsel submits that settled law and judicial propriety dictates that the law laid down by a larger bench is binding on the subsequent benches of co-equal or lesser strength. Therefore, if this Court finds that contradictory views have been taken by two benches of co-equal strength, it may consider referring this controversy to a larger bench for the sake of uniformity and clarity. Reliance in this regard is placed on the judgment rendered by a Constitution Bench of the Hon'ble Supreme Court in ***Central Board of Dawoodi Bohra Community and another vs. State of Maharashtra and another AIR 2005 SC 752***, wherein, speaking through Justice R.C. Lahoti, the following was opined:

> *"5. In Bharat Petroleum Corporation Ltd's case (supra) the Constitution Bench has ruled that a decision of a Constitution Bench of this Court binds a Bench of two learned Judges of this Court and that judicial discipline obliges them to follow it, regardless of their doubts about its correctness. At the most, they could have ordered that*

the matter be heard by a Bench of three learned Judges. Following this view of the law what has been declared by this Court in Pradip Chandra Parija and Ors. case (supra) clinches the issue. The facts in the case were that a Bench of two learned Judges expressed dissent with another judgment of three learned Judges and directed the matter to be placed before a larger Bench of five Judges. The Constitution Bench considered the rule of 'judicial discipline and propriety' as also the theory of precedents and held that it is only a Bench of the same quorum which can question the correctness of the decision by another Bench of the co-ordinate strength in which case the matter may be placed for consideration by a Bench of larger quorum. In other words, a Bench of lesser quorum cannot express disagreement with, or question the correctness of, the view taken by a Bench a larger quorum. A view of the law taken by a Bench of three Judges is binding on a Bench of two Judges and in case the Bench of two Judges feels not inclined to follow the earlier three-Judge Bench decision then it is not proper for it to express such disagreement; it can only request the Chief Justice for the matter being placed for hearing before a three-Judge Bench which may agree or disagree with the view of the law taken earlier by the three-Judge Bench. As already noted this view has been followed and reiterated by at least three subsequent Constitution Benches referred to here in above 2001.

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12. Having carefully considered the submissions made by the learned Senior Counsel for the parties and having examined the law laid down by the Constitution Benches in the above said decisions, we would like to sum up the legal position in the following terms :-

(1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.

(2) A Bench of lesser quorum cannot doubt the correctness of the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter

being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of co-equal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of co-equal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.

(3) The above rules are subject to two exceptions: (i) The above said rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and (ii) In spite of rules laid down here in above, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of Chief Justice constituting the Bench and such listing. Such was the situation in Raghubir Singh and others and Hansoli Devi and others (supra).”

OBSERVATIONS AND ANALYSIS

17. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that Rule 143 of the HCSR provides for extension of service tenure by an additional 02 years i.e. up to the age of 60 years. This benefit was previously available to persons with disabilities to the extent of 70% or more, blind employees, Group D employees and Judicial Officers. However, a Division Bench of this Court in ***Jora Singh***

(supra) declared the same as *ultra vires* as it sought to create classification within the homogenous class of persons with benchmark disabilities i.e. persons with a disability to the extent of 40% or more, as defined in the Act of 2016. Accordingly, the Government of Haryana issued notification dated 03.02.2026 whereby Rule 143, HCSR was amended to omit persons with disabilities as a whole from its purview. Thereafter, the said amendment was challenged in ***Rajnish Kumar (supra)***, being violative of the Act of 2016 and Article 14 of the Constitution of India. However, the same was also dismissed vide order dated 10.03.2026.

18. Notably, a particular question was framed by the Division Bench in ***Rajnish Kumar (supra)*** in this regard which was answered in the affirmative. The same relevant extract of the said judgment is reproduced below:

> *"12. Upon consideration of the rival submissions, the following issues fall for our consideration:-*
>
> > *i) Whether the withdrawal of the benefit of enhanced age of superannuation granted to certain disabled employees under the unamended provisions of Rule 143 of the 2016 Rules, is violative of their vested rights under the provisions of the RPwD Act?;*
> >
> > *ii) Whether the impugned notification dated 03.02.2026 (Annexure P-6) has been issued without application of mind and in an arbitrary manner?; and*

iii) ***<u>Whether the impugned notification would also be applicable on employees who had already crossed the age of 58 years, before the coming into force of the amended Rules?</u>***

xxx xxx xxx

Issue No.3

35. As regards issue no.3, the right of the employer to alter the service conditions, including the retirement age by way of reduction in the age of superannuation, is not a matter of dispute before us and it has been held by the Hon'ble Supreme Court in the case of ***Bishnu Narain Misra vs. State of Uttar Pradesh and others, AIR 1965 SC 1567****, that such exercise of power would not be hit by Article 311 of the Constitution of India.* ***<u>The argument of the petitioners that such reduction would operate prospectively and would not be applicable to employees who have already crossed the age of 58 years, is based upon a wrong assumption that the same would result in disturbing accrued rights which already stand crystallized. The correct legal position is that the conditions of service, including the age of superannuation, do not confer an indefeasible vested right on a government servant. The State retains competence to alter them for valid reasons. The prospective nature only protects against reopening of past service records, past pay fixation etc., accrued service benefits such as salary and pension etc., which cannot be withdrawn.</u>*** *In the case of* ***Kashmiri Lal (supra)****, it was inter alia observed as under:-*

> *"18.……Otherwise also, an employee has no fundamental right as regards the age at which he would retire. Moreover, termination of service of an employee on account of reaching the age of superannuation in accordance with law or rules regulating the conditions of service does not amount to his removal from service within the meaning of Article 311(2) of the Constitution of India.3 In K. Nagaraj v. State of Andhra Pradesh, (1985) 1 SCC 523, a three-Judge Bench of this Court upheld reduction of the age of retirement from 58 years to 55 years. While doing so, this Court observed that "it is not*

possible to lay down an inflexible rule that 58 years is a reasonable age for retirement and 55 is not. If the policy adopted for the time being by the Government or the Legislature is shown to violate recognized norms of employment planning, it would be possible to say that the policy is irrational since, in that event, it would not bear reasonable nexus with the object which it seeks to achieve. But such is not the case here."

36. The appellant in the said case was granted the benefit of continuance of service and full wages with all consequential benefits that may impact his pension uptil 04.11.2019, which was the date on which the OM granting the benefit of extended age of superannuation till 60 years, was withdrawn.

*37. In the instant case, we may take note that by virtue of interim orders passed by this Court, several employees are continuing to work, even after coming into force of the impugned notification, despite having attained the age of 58 years. Under such circumstances**, we hold that all such employees who have crossed the age of 58 years, shall be entitled to protection of service benefits, like salary, pension, etc. till the date of their working. However, on account of the amendment in Rule 143 coming into force on 03.02.2026, no existing employee can claim to continue till the age of 60 years.**"*

(emphasis added)

19. Since a categorical finding has been returned by the Division Bench in ***Rajnish Kumar (supra)*** that the amendment to Rule 143, HCSR shall also apply to the existing employee, judicial propriety demands that the conclusion arrived at therein be uniformly applied. As such, it would be unsuitable for this Court to delve into the issues raised by learned counsel for the petitioner(s).

2026:PHHC:066871

CONCLUSION

20. In view of the discussion above, all the aforementioned writ petitions are hereby dismissed.

21. Photocopy of this order be placed on the files of connected cases.

(HARPREET SINGH BRAR)
JUDGE

30.03.2026
Parul Verma

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No