
(2013) 11 P&H CK 0242
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 4548 of 2012

Suraj Mal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 12-11-2013

Acts Referred:

Citation : (2014) 2 SCT 246

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Tewari, J.—The petitioner was to attain the age of 58 years on 30.06.2010. In January, 2010 i.e. 6 months prior to the said date, he applied for extension of two years in service on the ground of being physically handicapped in view of the instructions Annexures P-2 and R-2. As per the said instructions if any person applied for the extension on the ground of being physically handicapped, his case would be referred to the PGIMS, Rohtak for certification of his physical handicap. Instead of doing that, by letter dated 18.6.2010 his case was rejected on the ground that the same was not supported by a certificate of the PGIMS, Rohtak. It is noteworthy that even a copy of this letter was not endorsed to the petitioner and he was retired on 30.06.2010. He filed CWP No. 18242 of 2010. Instead of filing reply, his case was conceded and he was allowed to join with the result that the said CWP No. 18242 of 2010 was rendered infructuous and was disposed of by order Annexure P-16. However, for the period during which he remained out of service he was denied the monetary benefits. By the present writ petition he has prayed for his due remuneration for the said period. In the written statement again the plea has been taken that his case for extension could not be considered for want of certificate from the PGIMS, Rohtak. There is no reply as to why, in terms of the instructions Annexure R-2, his case was not referred at the appropriate time to the PGIMS, Rohtak.

2. Learned counsel for the petitioner is right in contending that if the petitioner

had unilaterally gone to PGIMS he would not have been given the certificate. Such certificate could only have been given if the matter had been referred to the said hospital by the Government. The issue, therefore, is whether the Government is now justified in denying to the petitioner the payment for the period during which he remained out of service.

3. In my considered opinion in view of the stipulation in the policy formulated by the Government it-self (Annexure R-2) it was incumbent upon the respondents to have referred the case of the petitioner to the PGIMS and not to have rejected it. Had that been so, the petitioner would have been allowed to continue in service and would have earned all his benefits.

4. Learned counsel for the petitioner has further argued that during his entire service career the Government had itself given a special allowance to the petitioner which is permissible only to the physically handicapped employees and consequently the respondents were well aware that he was a physically handicapped person and, even if they felt that he should have been examined by the medical board of the PGIMS Rohtak, the matter should have been referred to the said hospital. In the circumstances he has prayed that the principle of "No work, No pay" which has been heartlessly invoked by the respondents, would not apply in the present case.

5. I am in agreement with learned counsel for the petitioner. In view of all the admitted facts mentioned above it was incumbent upon the respondents to have immediately referred the case of the petitioner to the PGIMS, Rohtak and they had no authority or jurisdiction to have rejected the same unilaterally. Consequently it has to be held that the petitioner was prevented from doing his duty by an unreasoned arbitrary act on the part of the respondents. In these circumstances the principle of "No work, No Pay" would not be applicable. The petition is allowed. The respondents are directed to pay to the petitioner the salary and all other benefits for the period during which he was not allowed to work. Let the necessary payment be made within a period two months from the date of receipt of a certified copy of this order failing which the petitioner would be entitled to claim the same with interest at the rate of 8% p.a. from the date/s the amount/s fell due till the date of payment.