

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CWP-31286-2024
DECIDED ON:19.12.2025

BRIJ BHUSHAN

...PETITIONER
VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.N. Lohan, Advocate
for the petitioner

Mr. Deepak Balyan, Addl. AG. Haryana

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance of a writ in nature of certiorari quashing the order dated 16.10.2024 the (P-8) and issued vide chargesheet memorandum dated 22.10.2024 (P-10) passed by the respondent No. 3 and for issuance of a writ in the nature of mandamus directing the respondents to retain the petitioner on some supernumerary post and also to retain the petitioner in service upto the age of 60 years and to grant all service benefits i.e. salary, allowances, promotion etc. alongwith all consequential benefits and for issuance of any other appropriate writ, order or direction as this Hon'ble Court may deem fit in the peculiar facts and circumstances of the case.

Brief Facts

2. The petitioner was initially appointed as Helper Painter in Haryana Roadways, Depot Jind on 01.10.1986, was regularised on 01.08.1995, and subsequently promoted as Painter on 20.05.2002, where he continues to be posted. During the course of service, the petitioner suffered a brain haemorrhage and has been assessed as 70% disabled by the Medical Board, Civil Surgeon, Jind, vide disability certificate dated 29.04.2024, along with issuance of a valid Unique Disability ID up to 29.04.2029. Owing to his severe disability, the petitioner is unable to perform duties of the post of Painter and cannot walk or stand properly.

3. Relying upon Section 20 of the Rights of Persons with Disabilities Act, 2016,(in short referred to as “The Act,2016”) Government of Haryana instructions dated 31.01.2006 and 06.07.2018, and judicial precedent, the petitioner claimed entitlement to retention on a supernumerary post with full service benefits, including salary and promotion, till the age of superannuation. A legal notice dated 03.05.2024 was served upon the respondents, but no action was taken, compelling the petitioner to file CWP No. 14840 of 2024, which was disposed of on 08.07.2024 with a direction to decide the legal notice.

4. Thereafter, respondent No. 3 rejected the petitioner's claim vide order dated 16.10.2024 on the ground that the petitioner did not suffer from permanent disability, relying upon a departmental letter dated 11.07.2023. Despite knowledge of the petitioner's medical condition and pending claim for accommodation, respondent No. 3 also issued a charge-sheet dated 22.10.2024 alleging unauthorised absence from duty w.e.f. 05.06.2024.

5. Aggrieved by the rejection of his claim, issuance of the charge-sheet, and denial of retention on a supernumerary post, the petitioner has approached this Court seeking quashing of the impugned order and charge-sheet and a direction to the respondents to retain him on a supernumerary post with all consequential service benefits till the age of superannuation.

Contentions

On behalf of Petitioner

6. Learned counsel for the petitioner contends that the petitioner, a Painter in Haryana Roadways, suffered a brain haemorrhage resulting in 70% disability, rendering him unfit to perform his duties. The petitioner is entitled under Section 20 of the Act,2016 to retention on a suitable post or, if not possible, on a supernumerary post with full service benefits, including salary and promotion, until superannuation.

7. It is argued that the Haryana Government's instructions dated 31.01.2006 and 06.07.2018 also support retention of disabled employees on supernumerary posts. The reliance by respondent No. 3 on the departmental letter dated 11.07.2023 is misplaced, as it relates to promotion reservation and does not override statutory provisions. The impugned order dated 16.10.2024 rejecting the petitioner's claim and the charge-sheet dated 22.10.2024 for alleged absence are arbitrary, discriminatory, and contrary to law, as they ignore the petitioner's medical condition and statutory rights.

8. It is therefore prayed that the impugned order and charge-sheet be quashed and the petitioner be retained on a supernumerary post with all consequential service benefits till the age of superannuation.

On behalf of respondent/State

9. Learned State counsel contends that the petitioner's service record is admitted, and the respondents have acted in accordance with law. In compliance with the Court's order dated 08.07.2024, respondent No. 3 considered the petitioner's legal notice but rejected his claim because the disability certificate produced by the petitioner is temporary, whereas benefits under the Haryana Government's letter dated 11.07.2023 require a permanent disability certificate. Despite multiple reminders, the petitioner failed to produce such a certificate. Consequently, he is not entitled to salary or retention till superannuation. The petitioner's claim under Section 20 of the Act, 2016, is inapplicable as he has not produced a permanent disability certificate. Photographic evidence indicates that the petitioner is mobile and not incapacitated.

10. It is further submitted that the petitioner has been absent from duty without prior notice since 05.06.2024, and the issuance of the chargesheet dated 22.10.2024 was lawful and in accordance with service rules. There is no violation of any statutory provision, policy, or of the Act, 2016.

11. Heard.

Analysis

12. In the present case, the petitioner, having suffered a brain haemorrhage, is assessed as 70% disabled as per the disability certificate dated 29.04.2024 (Annexure P-1), which is valid till 29.04.2029. In terms of Section 2 of the act 2016, a "person with disability" includes a person with long-term physical impairment which, in interaction with barriers, hinders full and effective participation in society on an equal basis with others. The petitioner

clearly falls within this definition, as he is unable to perform the duties of his post of Painter, cannot walk or stand properly, and is severely restricted in daily activities.

13. The contention of the respondents that the petitioner is not entitled to benefits due to the absence of a “permanent” disability certificate is does not hold good as the certificate issued by the competent Medical Board clearly records 70% disability and specifies its validity up to 29.04.2029. Considering the petitioner’s date of birth, 08.09.1969, he will attain the age of 60 years in 2029, which coincides with the validity of the certificate, confirming that he will remain 70% disabled for the entire remaining period of his service. Therefore, the rejection of the petitioner’s claim vide the impugned order dated 16.10.2024 is unsustainable.

14. Section 20 of the Act, 2016 mandates that no employee acquiring disability during service shall be removed, reduced in rank, or denied promotion. If the employee is unable to continue in the post held, he must be adjusted to a suitable post with the same pay and service benefits, or, if no such post is available, be retained on a supernumerary post until superannuation. In the present case, the petitioner’s disability clearly prevents him from performing his original duties, and he is entitled to accommodation on a supernumerary post with all consequential benefits.

15. Reliance is placed on the judgment of the Division Bench in **CWP-1399-2010 titled as Joginder Kaur vs Central Administrative Tribunal**, a wherein the court observed that an employee suffering from disability during service cannot be deprived of benefits that accrue by virtue of service and must be provided reasonable accommodation.

16. It must be borne in mind that the Rights of Persons with Disabilities Act, 2016 is a humane, remedial, and welfare-oriented legislation, enacted with the avowed object of protecting employees who suffer physical or mental misfortune during the course of their service and ensuring that such misfortune does not translate into economic or social exclusion. The petitioner has rendered almost four decades of sincere, diligent, and uninterrupted service to the respondent-department, dedicating the most productive years of his life in the service of the State, and it would be wholly unjust, unfair, and contrary to principles of equity to abandon him at the twilight of his career merely because he has suffered a disability not of his own making. An employee who acquires disability during service deserves empathy, institutional support, and reasonable accommodation, and not suspicion, indifference, or punitive action. The State, being a model employer, is expected to rise above technicalities and to act with compassion, sensitivity, and a sense of moral responsibility by making genuine efforts to adjust such an employee within the department rather than marginalising him or pushing him out of service. Any approach that treats disability as a ground for denial of service protection would undermine human dignity and would erode the very letter and spirit of the Act, 2016.

17. The Apex Court in ***Kunal Singh v. Union of India and Another, (2003) 4 SCC 524*** has categorically differentiated between the disability of a person and acquired disability while in service and contended that appellant having acquired disability while in service is entitled to alternate employment.

18. Further support can be gathered from the recent Apex Court Judgment rendered in the case of ***Ch. Joseph v. Telangana State Road***

Transport Corporation 2025 INSC 920 , wherein the Apex Court while dealing with the issue of disability in service has observed as under:-

“35. When a disability is acquired in the course of service, the legal framework must respond not with exclusion but with adjustment. The duty of a public employer is not merely to discharge functionaries, but to preserve human potential where it continues to exist. The law does not permit the severance of service by the stroke of a medical certificate without first exhausting the possibility of meaningful redeployment. Such obligation is not rooted in compassion, but in constitutional discipline and statutory expectation.

37. Thus, even though in the present case the Appellant had an enforceable right under a statutory industrial settlement-placing his claim on firmer footing-we find it necessary to reaffirm that even in the absence of such contractual rights, employees who acquire disabilities during service must not be abandoned or prematurely retired without being afforded a fair and reasonable opportunity for reassignment. The obligation to reasonably accommodate such employees is not just a matter of administrative grace, but a constitutional and statutory imperative, rooted in the principles of nondiscrimination, dignity, and equal treatment.

38. This Court, therefore, affirms that beneficial and remedial legislation must not be diluted by narrow interpretation, and the protections offered therein must be extended purposively to protect the livelihood, dignity and service continuity of employees who acquire disabilities during employment. In doing so, we not only vindicate the Appellant's rights but also reaffirm our constitutional commitment to a just and humane employer-employee relationship”

19. Before parting, this Court deems it necessary to observe that an employee who has devoted the prime of his life to public service ought not to be met with rigidity at the moment of his greatest vulnerability. Disability suffered during service calls not for punitive action, but for empathy,

accommodation, and institutional support. The State, as a model employer, must respond with humanity and fairness, lest service jurisprudence lose its moral and constitutional compass.

Conclusion

20. In the light of above, the impugned order dated 16.10.2024 passed by respondent No. 3 rejecting the petitioner's claim, as well as the charge-sheet dated 22.10.2024, are hereby quashed and set aside. The respondents are directed to retain the petitioner on a supernumerary post, or alternatively adjust him against a suitable post, with the same pay scale, continuity of service, and all consequential service benefits, including salary in terms of Section 20 of the Act, 2016, till he attains the age of superannuation. The period of absence occasioned due to the petitioner's medical disability shall be treated as duty for all intents and purposes. The respondents shall also release all consequential monetary benefits, including arrears of salary, if any, along with interest @ 6% per annum, calculated from the date the amounts became due till the date of actual payment. The aforesaid exercise shall be completed within a period of four weeks from the date of receipt of a certified copy of this order.

21. The petition is therefore, allowed.

22. Pending application(s) if any, shall disposed off, accordingly.

19.12.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

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