



CWP-12356-2024 (O&M)

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

CWP-12356-2024 (O&M)
Reserved on : 09.10.2025
Pronounced on : 24.12.2025
Uploaded on : 26.12.2025

Nakul

..... Petitioner

VERSUS

State of Haryana & Ors.

..... Respondents

*Whether only operative part of the judgment is pronounced
or the full judgment is pronounced: **Full Judgment***

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present : Mr. Jaspal Singh Maanipur, Advocate
for the petitioner.

Mr. Varun Gupta, Deputy Advocate General, Haryana.

ROHIT KAPOOR, J. (Oral)

1. The petitioner, who is an Orthopaedically disabled employee of the government of Haryana, has filed the present petition seeking quashing of Clause (iii) of Sub rule 1 of Rule 22 of the Haryana Civil Services (Allowances to Government Employees) Rules, 2016, and for setting aside the Memo dated 30.04.2024 (Annexure P-7), whereby his claim for grant of conveyance allowance, has been rejected. Further prayer has been made for directing the respondents to make the Rule compliant with the “The Persons



with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995" (in short '*the Act of 1995*') and to grant the petitioner special conveyance allowance, admissible to handicapped persons from the date when he suffered the disability, along with interest @ 9% per annum.

2. The case set up by the petitioner is that he joined the respondent-department, i.e. P.W.D. (B. & R.) on 10.03.1993 on daily wages as Beldar. His services were regularized w.e.f. 01.10.2003 and he was promoted as Work Supervisor on 01.07.2015. He was suffering from locomotor disability to the extent of 40% at the time of joining his service, as would be evident from the Medical Certificate dated 16.02.1993 (Annexure P-1).

3. It is claimed that while conveyance allowance was paid to similarly situated disabled employees, in accordance with the policies framed by the State from time to time, the petitioner was denied the said benefit, in a discriminatory manner.

4. The "Haryana Civil Services (Allowances to Government Employees) Rules 2016 (in short 'the 2016 Rules'), were notified on 19.07.2016, in exercise of the powers conferred under proviso to Article 309 of the Constitution of India. The relevant rules, providing for grant of Conveyance Allowance to differently abled Government employees are reproduced and read as under:-

"2. "conveyance allowance" means a monthly allowance paid for going to and coming from the place of duty;



4. “emoluments” for the purpose of—

(a) conveyance allowance to differently abled employees means—

- (i) basic pay in pay scale; and
- (ii) any other amount specially classed as emoluments for the purpose by the competent authority;

22. Conveyance allowance to blind and orthopaedically handicapped Government employees:-

- (1) *A Government employee working on regular basis, who is declared-*
 - (i) *blind or having vision less than 3/60 of field vision less than 10 in both eyes by the Head of Ophthalmological Department of a Government Civil Hospital; or*
 - (ii) *orthopaedically handicapped with a minimum of 40% permanent partial disability of either upper or lower limbs by the Head of Orthopaedics Department of a Government Civil Hospital; or*
 - (iii) *orthopaedically handicapped with overall minimum 50% permanent partial disability of both upper and lower limbs together by the Head of Orthopaedics Department of a Government Civil Hospital; or*
 - (iv) *suffering from the spinal deformity causing permanent partial disability of above 40% by the Head of Orthopedics Department of a Government Civil Hospital;*

shall subject to the provisions in these rules, be entitled to a conveyance allowance at the rate of 10 per cent of the basic pay subject to minimum Rs.1,000/- and maximum Rs.2,000/- per month or as prescribed from time to time. The dearness allowance at the prevailing rate shall also be admissible on conveyance allowance.

- (2) *No conveyance allowance shall be admissible to-*
 - (i) *one eyed (partially blind) Government employee; or*
 - (ii) *those who covered under these rules but have been provided with the facility of vehicle at Government expenses for journey between office and residence.*

Note.-*For the purpose of assessing of disability, the standards as contained in the Manual for Orthopedic Surgeon in Evaluating Permanent Physical Impairment brought out by the American Academy of Orthopaedic Surgeon U.S.A., and published on their behalf by Artificial Limbs Manufacturing Corporation of India, G.T. Road, Kanpur, shall apply.*



23. Competent authority and procedure for grant of conveyance allowance to blind and orthopaedically handicapped Government employees.—

(i) The Head of Department concerned shall refer the case of the concerned Government employee to the Head of Ophthalmological or Orthopaedics Department, as the case may be, of a Government Civil Hospital for obtaining their recommendations for the grant of conveyance allowance. In case he is declared blind or orthopaedically handicapped of the prescribed degree of disability, he shall be granted conveyance allowance with effect from the date of certificate of the appropriate medical authority.

(ii) The travelling allowance shall be admissible to the Government employee for the journey performed for obtaining recommendations of the appropriate medical authority.

(iii) The fee charged, if any, by the Government Hospital shall be reimbursable.

(iv) The period spent to obtain medical examination and also for journey performed for the purpose shall be treated as duty.”

5. The petitioner submitted a representation dated 30.10.2023 for grant of conveyance allowance in terms of the 2016 Rules and vide memo dated 04.01.2024, he was asked to appear in the office of the Civil Surgeon, Rohtak, for verification of the authenticity of the Unique Disability Certificate (UDID) dated 19.10.2023 (Annexure P-5), submitted by him. Perusal of the certificate dated 19.10.2023, which was sought to be verified, would show that it was issued by the office of the Civil Surgeon, Rohtak, Haryana, under the signatures of a team of doctors, including the Senior Medical Officer, Civil Hospital, Rohtak, and was also counter-signed by the Civil Surgeon. It was certified therein, that the petitioner is suffering from locomotor disability and was a diagnosed case of “*malunited fracture right hand metacarpal with stiff hand, with amputation left middle finger middle phalanx, with stiff right ankle, with mild stiffness of left ankle.*” It was further



certified that he has 40% permanent disability in relation to both lower limbs and both upper limbs, as per the guidelines for the purpose of assessing the extent of specified disability in a person, included under the Right of Persons with Disabilities Act, 2016 (in short 'the 2016 Act') notified by Government of India vide S.O.76(E) dated 04.01.2018.

6. Since the claim of the petitioner was not being accorded consideration, a legal notice was served upon the respondents on 09.04.2024. In the reply to the legal notice, the respondents rejected his claim vide Memo dated 30.04.2024 (Annexure P-7) on the ground that clarification was sought from the office of Civil Surgeon, Rohtak and as per the 'Certificate of Recommendation for Conveyance Allowance' dated 18.01.2024 (Annexure R-1) issued by District Civil Hospital, Rohtak, the case of the petitioner was not recommended for conveyance allowance.

7. It is in this backdrop that the petitioner has filed the instant petition claiming the reliefs, as mentioned hereinabove.

8. Learned counsel for the petitioner has argued that it is an admitted case that his claim was rejected only on the ground that he did not fulfill the requirement under Clause (iii) of Sub rule 1 of Rule 22 of the 2016 Rules, wherein the degree of disability has been raised to a minimum of 50%, for orthopaedically handicapped persons suffering permanent partial disability of both upper and lower limbs, with which runs contrary to and is *ultra vires* the provisions of the Act of 1995, as well as the 2016 Act, which are Central Acts, wherein the specified degree of disability for 'person with disability/person with benchmark disability' is minimum of 40%.



Submission is that under the Act of 1995 and Act of 2016, differently abled persons constitute a homogeneous class and once certificate of disability is issued to an employee by the certifying authority, it is not open for the state to create a further class amongst the homogeneous group of differently abled employees and restrict the benefit of conveyance allowance to some of them, by forming a criteria, not recognized under the Special enactments. It is contended that there is no valid ground or intelligible differentia to make such a classification between similarly situated disabled persons, and the same tantamounts to discrimination and is hit by Article 14 of the Constitution of India. Reliance is placed on the judgment of the Hon'ble Supreme Court of India in the case '**ONGC Limited vs Petroleum Coal Labour Union and Others**', (2015) 6 SCC 494, to contend that any 'policy decision' which is not in conformity with a Special enactment, cannot be held as valid in law.

9. *Per contra*, learned Counsel for the respondent-State, argues, that the State, as an employer, has the right to regulate the service conditions of its employees by making appropriate rules under the proviso to Article 309 of the Constitution of India and consequently the condition to grant the benefit of conveyance allowance to the Orthopedically disabled employees suffering from overall minimum 50% permanent partial disability of both upper and lower limbs together, is well within its power. The respondents also argue that since the petitioner has failed to show that the impugned statutory rule has been framed in violation of any fundamental right or was beyond the legislative competence of the state, the *vires* of the rule cannot be



assailed. It is contended that the State, while taking 'affirmative action' for persons suffering from different kinds of disabilities, is fully competent to identify the various categories, which may require grant of any special benefits and the same cannot be interfered with by this Court, while exercising the powers of judicial review. It is urged that a conscious decision was taken in terms of Rule 23, by the concerned Dr. of the District Civil Hospital, Rohtak, who did not recommend the case for grant of conveyance allowance to the petitioner and the said certificate was also signed by him, therefore no interference is warranted in the matter.

10. We have heard learned counsel for the parties and have gone through the material placed on record with their able assistance.

11. The short question that falls for our consideration is whether the State of Haryana can restrict the benefit of conveyance allowance under the impugned clause (iii) of Sub rule 1 Rule 22 of the 2016 Rules, to persons suffering from orthopaedic disability of overall minimum 50% or more of both upper and lower limbs, notwithstanding the provisions contained in the Acts of 1995 and 2016, specifying the degree of disability for grant of protection at 40% or above? Additionally, the issue raised is whether the rejection of the claim of the Petitioner for grant of conveyance allowance after following the procedure under Rule 23, warrants interference?

12. Since the *vires* of the impugned clause (iii) of Sub rule 1 of Rule 22 has been challenged primarily on the ground of the same being in conflict with the special enactment that is the Act of 1995, which now stands substituted with the Act of 2016, it is apposite to notice the background



under which these Acts were enacted and some of the relevant provisions, thereunder. In a Meeting to launch the Asian and Pacific Decade of Disabled Persons 1993-2002, convened by the Economic and Social Commission for Asia and Pacific, held at Beijing on 1st to 5th December, 1992, the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region, was adopted. India was a signatory to the said Proclamation and therefore with a view to implement the same, '*The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*' was enacted, which came into force w.e.f. 07.02.1996. Section 2 (i) of the Act of 1995 defined 'disability' to include disability of seven distinct kinds i.e. (i) Blindness; (ii) Low Vision; (iii) Leprosy-cured; (iv) Hearing impairment; (v) Locomotor Disability; (vi) Mental Retardation and (vii) Mental Illness, while Section 2(t) defined 'persons with disability' to mean a person suffering from not less than forty percent of any disability as certified by a medical authority. Several benevolent provisions were made for the disabled including reservation in jobs; affirmative action by making schemes to provide aid and appliances, preferential allotment of land at concessional rates; non-discrimination in transport, on road and in the built environment, in government employment etc.

13. Act of 1995 has been substituted by the Act of 2016, which came into force on 19.04.2017. "Person with benchmark disability", "Person with disability", and "specified disability" are defined under the Act, to mean as under:-



(r) “person with benchmark disability” means a person with not less than forty per cent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

(s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;

(zc) “specified disability” means the disabilities as specified in the schedule;

Section 56 of the Act of 2016 provides that the Central Government shall notify guidelines for the purpose of assessing the extent of ‘specified disability’ in a person. Perusal of the Schedule appended with the Act of 2016, would show that ‘physical disability’ includes ‘locomotor disability’.

14. Section 3 mandates that the appropriate government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity, equally with others. Chapter VI of the Act of 2016, contains special provisions for persons with benchmark disabilities. Section 31 provides for free education to children with benchmark disability while Section 32 provides for reservation in admission in higher educational institutions. Section 33 provides for identification of posts for reservation in employment. Section 34 then provides for reservation in the matter of employment for persons suffering from benchmark disability. Section 35 to 37 contains provisions to incentivize employers in private sector; creation of special employment exchange and special schemes and developmental programmes.



15. The provisions contained in the Act of 2016 provide for affirmative action to secure protection in the matter of employment for differently abled persons suffering with benchmark disability. No provision in the Act of 2016 exists permitting creation of any separate class of differently abled persons with higher degree of disability of 50% or above in the matter of grant of particular benefit in employment.

16. The respondents have failed to offer any plausible explanation or rationale for fixing of overall minimum 50% permanent partial disability of the orthopaedically handicapped persons suffering disability of both upper and lower limbs, when the applicable law in the form of Act of 1995 and the Act of 2016 specifies disability of 40% or above/benchmark disability for grant of protection to differently abled persons. This is particularly confounding when the degree of disability under clause (ii) of the same Rule, is that of minimum of 40% permanent partial disability of “either” upper or lower limbs for the orthopedically handicapped persons. No satisfactory explanation has been provided by the respondents as regards the reasons for such classification and the object sought to be achieved.

17. The Hon'ble Supreme Court of India in the case of '**Deaf Employees Welfare Association and Others Vs. Union of India and Others**', (2014) 3 SCC 173, in somewhat similar circumstances has held that once disability of 40% has been certified by the Medical Doctor as a disability specified in Section 2(i) of the Act of 1995, then such person is entitled to the benefits of all the schemes and benefits, provided by the



Government and there can be no further discrimination among the persons with varied or different types of disabilities.

18. In the said case the writ petition before the Hon'ble Supreme Court had been filed by two associations representing deaf and dumb persons, seeking directions to the Central and State Governments to grant transport allowance to its Government employees suffering from hearing impairment, equal to that which was being given to blind and orthopaedically handicapped Government employees and for further consequential reliefs. Despite recommendations by the Ministry of Health and Family Welfare, the Ministry of Finance, Department of Expenditure was not inclined to grant such relief on the ground that the Government has already constituted the 7th Central Pay Commission, and it would be appropriate that the pay commission should examine the claim made by the deaf and dumb persons. The observations as contained in paragraphs 26, 28 and 29 are extracted as under:-

“ XXX XXX XXX XXX XXX ”

26. *The Disabilities Act deals with a well-defined class i.e. persons with “disabilities” mentioned in Section 2(i). The nature of disability may differ from person to person included in Section 2(i), but all such persons have been categorized as a group of “persons with disabilities” under Section 2(i) read with Section 2(t) of the Act. In our view, the differentia sought to be canvassed by the Ministry of Finance has no rational relation to the object sought to be achieved by the Disabilities Act, which envisages to give equal opportunities, protection and rights to the “persons with disabilities”. Equality of law and equal protection of law be afforded to all the “persons with disabilities” while participating in governmental functions. Transport allowance is given to government employees since many of the government employees may not be residing in and around their places of work. Sometimes, they have to commute long distances to and fro. There has been an unprecedented increase in the commutation time*



between the residence and place of work which affects the work environment in offices adversely as the employee spend much of their energy in commuting and, in the case of persons with disabilities, the situation is more grave.

XXX XXX XXX XXX

28. *Deaf and dumb persons have an inherent dignity and the right to have their dignity respected and protected is the obligation on the State. Human dignity of a deaf and dumb person is harmed when he is being marginalized, ignored or devalued on the ground that the disability that he suffers is less than a visually impaired person which, in our view, clearly violates Article 21 of the Constitution of India. Comparison of disabilities among “persons of disabilities”, without any rational basis, is clearly violative of Article 14 of the Constitution of India. In our view, the recommendation made by the Ministry of Health and Family Welfare for extending the benefit of transport allowance to the government employees suffering from hearing impairment in equal with blind and orthopaedically handicapped government employees is perfectly legal and is in consonance with Articles 14 and 21 of the Constitution of India.*

29. *Under such circumstances, we are inclined to allow this writ petition and direct the respondents to grant transport allowance to deaf and dumb persons also on a par with blind and orthopaedically handicapped employees of the Central and the State Government and other establishments wherever such benefits have been extended to the blind and orthopaedically handicapped employees. Ordered accordingly.”*

19. We have recently decided a bunch of petitions, including CWP No. 2340 of 2023, titled as '**Jora Singh Vs. State of Haryana**', on 06.11.2025, wherein challenge was laid to Rule 143 of the Haryana Civil Service (General) Rules, 2016, insofar as the benefit of extension in the age of superannuation to 60 years, was extended to only such differently abled employees, whose degree of disability is 70% or above. After examining various judicial pronouncements, including the observations of the Supreme Court in ***Deaf Employees Welfare Association* supra**, it was held that limiting the benefit to only such class of disabled persons, would contravene Article 14 as well as provisions of the Act of 2016. Resultantly, we read



down the said rule, to hold that all differently abled employees of the State of Haryana, who were issued the certificate of disability under the Act of 1995 and the Act of 2016, would be entitled to the benefit of enhanced age of superannuation of 60 years.

20. We, therefore, find substance in the petitioners' grievance that the denial of benefit of conveyance allowance to the petitioner, while extending the said benefit to the persons having 40% permanent partial disability of 'either' upper or lower limbs and other persons with disability, would be in the teeth of the special enactments i.e. the Acts of 2005 & 2016. The persons with disability of 40% or above, constitute a class in themselves and further creation of a class in such homogenous group, would be arbitrary unless the classification is based on any intelligible differentia and has a valid object to achieve. In the facts of the present case, since no such grounds are shown to exist, the impugned clause (iii) of Sub rule 1 of Rule 22 contravenes Article 14 of the Constitution of India as well as the provisions of the Act of 2016 and consequently is liable to be declared *ultra vires*.

21. Adverting to the arguments raised by the respondent, although there is no doubt that the State is competent to frame Rules for regulating the conditions of its employees, however, in the process it cannot resort to selective affirmative action of granting benefits to a particular class of disabled employees, who form a homogenous group under the Acts of 2005 & 2016. Having found that such classification, is violative of Article 14 of the Constitution of India, the argument of the respondents, that no ground



for challenging the *vires* of the impugned clause of Sub rule 1 Rule 22 exists, is bereft of any merit.

22. We are equally unimpressed by the other argument advanced by the respondents, regarding rejection of the claim of the petitioner on the basis of recommendations in the medical certificate dated 18.01.2024 (Annexure R-I). Careful perusal of the certificate would show that the same relies upon the earlier certificate dated 19.10.2023 (Annexure P-5) issued by the recognized certifying authority under the 2016 Act, to certify that the petitioner is suffering from locomotive deformity and is a divyang person and his permanent disability is 40%. Thereafter, it only records that the petitioner is not entitled for conveyance allowance, and no other reasons for the same, have been mentioned. The petitioner has pleaded in his petition that the solitary reason for such rejection is clause (iii) of Sub rule 1 of Rule 22, which has not been denied in the reply filed by the respondents. Thus, it is clear that the reason for the doctor not recommending the case of the petitioner, was only on account of the fact that he did not fulfill the criteria under the impugned clause of Sub rule 1 of Rule 22 and therefore the same cannot be considered as a valid basis for rejection of the claim of the petitioner.

23. In order to save clause (iii) of Sub rule 1 of Rule 22 from the vice of hostile discrimination, we read down the said clause and hold that all disabled employees of the State of Haryana, suffering from disability/benchmark disability of 40% or more, who have been issued a valid certificate of disability under the Acts of 2005 and 2016, and in

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accordance with the guidelines issued under section 56 of the 2016 Act, would also be entitled to the benefit of conveyance allowance, under the said clause.

24. For the reasons recorded above, the writ petition is allowed in part, and the Memo/Reply dated 30.04.2024 (Annexure P-4) rejecting the claim of the petitioner for conveyance allowance is set aside. The respondents are directed to release conveyance allowance to the petitioner, as fixed from time to time, as per Rule 22 of the 2016 Rules, alongwith interest @ of 8% per annum, within a period of three months from the date of presentation of a copy of this order. The arrears shall be restricted to a period of 38 months prior to the filing of the writ petition.

25. Pending application(s), if any, shall also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

Vinod/raj
24.12.2025