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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-16604-2026 (O&M)

Sakander Singh Virk ...Petitioner

Versus

State of Punjab & others ...Respondents

| <i>Sr. No.</i> | <i>Particulars</i>                                                                              | <i>Details</i> |
|----------------|-------------------------------------------------------------------------------------------------|----------------|
| 1.             | <i>The date when the judgment is reserved</i>                                                   | 03.08.2026     |
| 2.             | <i>The date when the judgment is pronounced</i>                                                 | 19.08.2026     |
| 3.             | <i>The date when the judgment is uploaded on the website</i>                                    | 20.08.2026     |
| 4.             | <i>Whether only operative part of the judgment is pronounced or full judgment is pronounced</i> | Full           |
| 5.             | <i>The delay, if any, of the pronouncement of full judgment, and reasons thereof</i>            | N.A.           |

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Aman Pal, Senior Advocate, with  
Ms. Neha Rani, Advocate, for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

NAMIT KUMAR, J.

1. The present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking a writ of certiorari for quashing orders dated 23.02.2026 (Annexure P-1) and 20.04.2026 (Annexure P-2) passed by respondent No.3 - Senior Superintendent of Police, Jalandhar (Rural) (wrongly mentioned as respondent No.4 in the petition), whereby the petitioner has been denied the benefit of extension in service from 58 to 60 years, despite being a person with disability as per the statutory Rules and the Government policy.



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2. Briefly stated, the facts of the case, as have been pleaded in the petition, are that the petitioner was initially appointed as Constable in the Punjab Police and joined as such on 08.11.1989. He was, thereafter, promoted upto the rank of Inspector (Local) in the year 2003 and at the time of retirement, he was working as regular Assistant Sub Inspector. The date of birth of the petitioner is 14.02.1968 and, therefore, was due to retire on attaining the age of 58 years on 28.02.2026, which was the normal age of superannuation.

3. However, the State of Punjab, Personnel Department, had issued letter dated 19.02.2021 (Annexure P-3), pursuant to the judgment of the Hon'ble Supreme Court in *Civil Appeal No.8855 of 2014* titled '*State of Punjab Vs. Bhupinder Singh*' decided on 16.09.2014, whereby certain categories of employees were made eligible for extension in the age of retirement from 58 to 60 years. In pursuance thereof and in terms of Rule 3.27 of the Punjab Civil Services Rules, Volume-I (Part-I), the petitioner got himself medically examined for assessment of his disability and appeared before the Board of Doctors at Government Medical College, Amritsar as well as specialist Doctors at Civil Hospital, Jalandhar. Upon examination, the Chief Medical Officer, Civil Hospital, Jalandhar certified that the petitioner was suffering from 25% hearing impairment and 25% locomotor disability, with an overall disability of 44%. Copy of the Unique Disability ID Card dated 05.12.2025 is annexed as Annexure P-4.

4. The petitioner, thereafter, submitted a representation to the Senior Superintendent of Police, Jalandhar (Rural) [hereinafter to be referred as 'SSP'] along with the disability certificate and the relevant documents, seeking extension of 2 years in service. The SSP, having found the



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petitioner's case fit for consideration for extension in service, forwarded the same to the Deputy Inspector General of Police, Jalandhar Range, Jalandhar [hereinafter to be referred as 'DIG'], vide letter dated 03.02.2026 (Annexure P-6), with the request that, if considered appropriate, the case of the petitioner regarding extension in service period be forwarded to the Director General of Police, Punjab, Chandigarh, [hereinafter to be referred as 'DGP'] for recommendation. However, the DIG vide letter dated 09.02.2026 (Annexure P-7), returned the case of the petitioner with the remarks that the petitioner's case be considered by the SSP at its own level in accordance with letter dated 19.02.2021 (Annexure P-3) issued by the State of Punjab, Personnel Department and that the decision taken thereon be conveyed to the concerned offices.

5. Since the petitioner's retirement was approaching, the petitioner approached the DGP vide representation dated 13.02.2026 (Annexure P-8) seeking extension of 2 years in service. The office of the DGP, vide letter dated 19.02.2026 (Annexure P-9), directed the DIG to consider the petitioner's case at its own level and to intimate the decision to the concerned offices as well as office of the DGP.

6. Since no action was taken on the petitioner's case for extension of 2 years in service, despite letter dated 19.02.2026, the petitioner approached this Court by filing CWP-6585-2026 titled 'Sakander Singh Virk Vs. State of Punjab & others' seeking direction to the respondents to allow him to continue in service till the age of 60 years. The said writ petition was listed for hearing on 06.03.2026. However, before the date fixed for hearing, the petitioner was communicated, through WhatsApp on 27.02.2026 i.e. just one day prior to his scheduled retirement, the order dated



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23.02.2026 (Annexure P-1), whereby his claim for extension in service had been declined. Consequently, the said writ petition was withdrawn by the petitioner, vide order dated 06.03.2026 (Annexure P-10), with liberty to assail the order dated 23.02.2026.

7. Thereafter, the petitioner again approached this Court by filing CWP-7519-2026 titled 'Sakander Singh Virk Vs. State of Punjab & others' challenging the order dated 23.02.2026, passed by the SSP, whereby he had been retired from service and the benefit of extension of service was denied to him. The said writ petition was disposed of by this Court, vide order dated 24.03.2026 (Annexure P-11) with a direction to respondent No.4 therein, to reconsider the case of the petitioner for extension in service in the light of judgment passed in ***CWP-12596-2019*** titled '***Prem Nath Vs. Punjab Water Resources Management and Development Corporation & others***' decided on 03.02.2023 within a period of one month. In purported compliance of the order dated 24.03.2026 (Annexure P-11), the claim of the petitioner was again rejected vide order dated 20.04.2026 (Annexure P-2). Hence, the instant petition.

8. Reply by way of affidavit of Mr. Mukesh Kumar, Superintendent of Police (Headquarter), Jalandhar (Rural) on behalf of the respondents has been filed, wherein the following stand has been taken:

*“(4) That in compliance to the Order dated 24.03.2026 of the Hon'ble High Court, Respondent No.3 Senior Superintendent of Police, Jalandhar Rural re-considered the claim of the petitioner and vide Speaking Order dated 20.04.2026 declined his claim on the ground that the petitioner failed to qualify as a 'person with benchmark disability' under Section 2(r)(c) of the Rights of Persons with Disabilities Act, 2016, as neither of his individual disabilities (25% locomotor disability and 25%*



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*hearing impairment) independently crosses the mandatory threshold of 40%. The Multiple disabilities cannot be aggregated to satisfy this threshold. The application for extension of service dated 19.02.2026 was not submitted within the mandatory period of three months prior to the date of retirement, and as such it was in breach of Rule 3.26(a) of the Punjab Civil Services Rules, Volume I (Part-I). Even assuming, that the applicant was otherwise eligible under Rule 3.26(a) and Section 2(r) of the RPwD Act, 2016, the mandatory medical examination by the Civil Surgeon under (Punjab Civil Services Rules, Rule 3.27) has not been conducted and the Competent Authority was therefore unable to satisfy itself of the petitioner's physical and mental fitness for continuance in service beyond 58 years of age. Accordingly, the application of petitioner for extension of service from 58 to 60 years on the ground of disability was declined. The Speaking Order dated 20.04.2026 has already been annexed with the Writ petition.*

- (5) *That it is further submitted here that the petitioner has never preferred any departmental appeal before the competent authority to challenge either the Order dated 23.02.2026 (Annexure P-1) and/or the Order dated 20.04.2026 (Annexure P-2). The petitioner failed to clarify in his Writ petition the reasons for not preferring any appeal against the aforesaid orders dated 23.02.2026 and 20.04.2026 of the respondent No. 3 before the Appellate Authority i.e., Deputy Inspector General of Police, Jalandhar Range, Jalandhar."*

9. In nutshell, the claim of the petitioner has been rejected and is being defended by the respondents primarily on four grounds. Firstly, that the petitioner failed to qualify as a person with benchmark disability within the meaning of Section 2(r)(c) of the 'Rights of Persons with Disabilities Act, 2016', as neither of his disabilities i.e., 25% locomotor disability and 25% hearing impairment, independently meets the prescribed threshold of



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40% and the multiple disabilities cannot be aggregated to satisfy the said threshold. Secondly, that the application seeking extension of service was not submitted within a period of three months prior to the date of retirement, which is a mandatory condition as per Rule 3.26(a) of the Punjab Civil Services Rules, Volume I, (Part-I). Thirdly, that the mandatory medical examination by the Civil Surgeon has not been conducted and the competent authority was, therefore, unable to satisfy itself regarding petitioner's physical and mental fitness for continuation in service beyond the age of 58 years. Fourthly, that the judgment in *Prem Singh's* case (supra) is not applicable to the facts and circumstances of the present case.

10. Learned senior counsel appearing for the petitioner has submitted that as per provisions of Sections 2(r), 2(s) & 2(zc) of the 'Rights of Persons with Disabilities Act, 2016' and the Schedule appended to Section 2(zc), the multiple disabilities suffered by the petitioner comprises 44% overall disability and as such, the petitioner is entitled for grant of extension in service for 2 years. He has further submitted that there was no requirement of giving three months' prior notice as per Rule 3.26(a) of the Punjab Civil Services Rules Volume-I (Part-I) in the light of *non obstante* clause provided under Rule 3.27. He further submitted that the petitioner was never subjected to any medical examination and if the appointing authority had any doubt about the fitness of the petitioner, it could have asked the petitioner to appear before the Civil Surgeon of their choice and the petitioner would have appeared before the Medical Board or Civil Surgeon. In support of his contentions, he places reliance upon ***Prem Nath's*** case (supra) as well as a Division Bench judgment of Karnataka High Court in ***Union of India Vs. Yaswanth G.V., 2015 (1) AIR Kar R 442.***



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11. Per contra, apart from submitting that the petitioner failed to avail the departmental remedy of appeal, learned State counsel has reiterated the stand taken in the impugned orders as well as in the written statement filed on behalf of the respondents.

12. I have heard learned senior counsel appearing on behalf of the petitioner as well as learned State counsel and have perused the record.

13. While dealing with the preliminary objection raised by the respondents with regard to availability of the departmental remedy of appeal, it may be stated that firstly, no Rule has been specified in the written statement under which it is provided and secondly, the petitioner had already approached this Court by filing CWP-7519-2026, which was disposed of by this Court, vide order dated 24.03.2026 (Annexure P-11), directing respondent No.4 therein to reconsider the case of the petitioner for extension in service. The impugned order dated 20.04.2026 (Annexure P-2) has been passed pursuant to the directions issued by this Court. In such circumstances, relegating the petitioner to departmental remedy of appeal would neither serve the ends of justice nor constitute a bar to the exercise of writ jurisdiction. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court reported as *Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai & others, 1998 (8) SCC 1.*

14. Now before proceeding further, it is apposite to reproduce the relevant Rules/Sections of the Punjab Civil Services Rules Volume-I (Part-I) and the Rights of Persons with Disabilities Act, 2016. The same are as under:

***Punjab Civil Services Rules Volume-I (Part-I)***



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*“3.26 (a) Except as otherwise provided in this rule, the date of retirement of a Government employee shall be as follows, namely:—*

*(i) fifty-eight years in the case of Group “A”, “B” and “C” employees; and*

*(ii) sixty years in the case of Group “D” employees; Provided that if the State Government is of the opinion that it is necessary and expedient so to do in public interest, the Service of a Government employee or a class of Government employees, may be extended for a period of two years on yearly basis, subject, however, to giving an option within a period of three months before the date of retirement by the Government employee, who seeks extension:*

*Provided further that a Government employee, who is already on extension, shall also give fresh option within a period of one month from the date of publication of these rules:*

*Provided further that no Government employee, shall be retained in Service, after the completion of his extended period of Service. However under exceptional circumstances, if the State Government considers it necessary and expedient so to do in public interest, it may extend the Service of a Government employee beyond the aforesaid limit, for the reasons to be recorded, in writing.*

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*3.27 Notwithstanding anything contained in rule 3.26, the date of retirement of a Government employee (other than a Group “D” employee), who is suffering from any of the disabilities viz., blindness or low vision, hearing impairment, locomotor disability or cerebral palsy, shall be the date on which he attains the age of 60 years instead of 58 years:*



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*Provided that whenever an appointing authority has reason to believe that such a Government employee is mentally or physically unsuitable to discharge the duties of the post held by him, it shall require him to appear before a Civil Surgeon for a medical check-up and his continuance in the Government service beyond the age of 58 years, shall be subject to being declared fit on such medical check-up.*

*Explanation 1.—*

*(i) The term “disabilities” used in this rule shall have the same meaning as defined in Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Central Act 1 of 1996); and*

*(ii) The expression “a Government employee, who is suffering from any of the disabilities” means a Government employee who is suffering from not less than forty per cent of any of the disabilities mentioned in this rule as certified by the medical authority specified by the Government.”*

**Rights of Persons with Disabilities Act, 2016**

**2. Definitions.**—*In this Act, unless the context otherwise requires,-*

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*(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*

xx xx xx

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



**The Schedule**

5. *Multiple Disabilities (more than one of the above specified disabilities) including deaf blindness which means a condition in which a person may have combination of hearing and visual impairments causing severe communication, developmental, and educational problems.”*

15. The principal ground on which the petitioner has been denied extension in service is that he does not satisfy the requirement of being a ‘person with benchmark disability’, as neither his 25% hearing impairment nor his 25% locomotor disability independently meets the threshold of 40%. The said contention cannot be accepted. Rule 3.27 of the Punjab Civil Services Rules opens with a *non obstante* clause - "Notwithstanding anything contained in Rule 3.26", which carved out a distinct and special provision governing the age of retirement of Government employees suffering from specified disabilities. The said Rule grants such employees the benefit of retirement at the age of 60 years instead of 58 years, subject only to the conditions contained therein. Explanation (i) to Rule 3.27 provides that the expression ‘disabilities’ shall carry the same meaning as assigned under the ‘Rights of Persons with Disabilities Act, 2016’. Section 2(zc) of the 2016 Act defines ‘specified disability’ to mean the disabilities specified in the Schedule appended to the Act. Item-5 of the Schedule expressly recognizes ‘Multiple Disabilities (more than one of the above specified disabilities)’ as a specified disability in itself. Thus, the scheme does not treat multiple disabilities as separate compartments. Rather, it recognizes the cumulative effect of more than one specified disability as constituting a distinct specified disability.



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16. The petitioner has been issued a disability certificate by the Chief Medical Officer, Civil Hospital, Jalandhar. In the said certificate, it was certified that the petitioner was suffering from 25% hearing impairment and 25% locomotor disability, with an overall disability of 44%. The respondents have not disputed the authenticity of the said disability certificate or the competence of the certifying authority at any stage. Once the competent medical authority has certified an overall disability of 44% arising out of multiple specified disabilities, the respondents cannot segregate the individual components so as to defeat the statutory recognition accorded to multiple disabilities under the 2016 Act.

17. Section 2(r) of the 2016 Act defines a 'person with benchmark disability' as a person with not less than 40% of a specified disability certified by the certifying authority. Since 'multiple disabilities' itself is a specified disability under Section 2(zc) read with the Schedule, and the competent authority has certified the petitioner's overall disability as 44%, the petitioner squarely falls within the definition of a person with benchmark disability. The interpretation suggested by the respondents would render Item-5 of the Schedule redundant, which is impermissible in law.

18. The second ground taken by the respondents is that the petitioner did not submit his option three months prior to his retirement, as required under Rule 3.26(a). This contention also deserves to be rejected. Rule 3.27 begins with the expression 'Notwithstanding anything contained in Rule 3.26...'. A *non obstante* clause is employed by the Legislature to give overriding effect to the provision in which it occurs. Once Rule 3.27 is attracted, the procedural requirement contained in the first proviso to Rule 3.26(a) regarding submission of an option three months before retirement



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cannot be imported into Rule 3.27. The Rule does not prescribe any separate limitation period for seeking extension. Rather, it confers a statutory entitlement upon an eligible employee to continue till the age of 60 years.

19. A perusal of the record reveals that the petitioner had approached the authorities well before his retirement. Admittedly, the petitioner submitted a representation to the SSP along with all the relevant documents seeking extension of 2 years in service. The SSP, having found the petitioner's case fit for consideration for extension in service, forwarded the same to the DIG, vide letter dated 03.02.2026 (Annexure P-6), with the request that, if considered appropriate, the petitioner's case be forwarded to the DGP for recommendation. However, the DIG, vide letter dated 09.02.2026 (Annexure P-7), returned the case of the petitioner with the remarks that the petitioner's case be considered by the SSP at its own level in accordance with letter dated 19.02.2021 (Annexure P-3). Since the petitioner's retirement was approaching, the petitioner made representation dated 13.02.2026 (Annexure P-8) to the DGP seeking extension of 2 years in service. The office of the DGP, vide letter dated 19.02.2026 (Annexure P-9), directed the DIG to consider the petitioner's case at its own level and to intimate the decision to the concerned offices as well as office of the DGP. Still further, since no decision was taken on his representation/s, the petitioner approached this Court by filing CWP-6585-2026 seeking direction to the respondents to allow him to continue in service till the age of 60 years. However, before the date fixed for hearing in the said case i.e. 06.03.2026, the petitioner was communicated about the order dated 23.02.2026 (Annexure P-1), through WhatsApp on 27.02.2026 i.e. just one day prior to his scheduled retirement, whereby his claim for extension in service had



been declined. Thus, having entertained the petitioner's claim on merits, the respondents cannot subsequently defeat the same on the technical ground of limitation.

20. The third ground urged by the respondents is that the petitioner was never medically examined by the Civil Surgeon under the proviso to Rule 3.27. A plain reading of the proviso does not make medical examination by the Civil Surgeon a precondition for every employee seeking extension. Rather, it empowers the appointing authority to require such examination whenever it has reason to believe that the employee is mentally or physically unsuitable to discharge his duties. In the present case, no material has been placed on record to show that the appointing authority ever formed an opinion that the petitioner was incapable of performing his duties. On the contrary, the petitioner continued to serve till the date of superannuation and no adverse material regarding his efficiency or medical unfitness has been shown. If the respondents deem that a medical examination is necessary, it was incumbent upon them to require the petitioner to appear before the Civil Surgeon. The petitioner cannot be penalized for the omission of the authorities themselves.

21. Lastly, the ground taken that the judgment in *Prem Singh's* case (supra) is not applicable to the facts and circumstances of the present case, is totally misconceived. In *Prem Nath's* case (supra), a Coordinate Bench of this Court, while considering the similar issue in respect of an employee of 'Punjab Water Resources Management and Development Corporation', observed that the employees with multiple or varying physical disabilities are entitled to service retirement age extension up to 60 years under Rule 3.27 of the Punjab Civil Services Rules, 1970. It has been observed thus:



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*“26. Rule 3.27 makes it abundantly clear that the same has been enacted in recognition of the right of a person with disability under the central enactment. Rule was enacted while 1995 Act was in vogue. Without falling upon Section 24 of the General Clauses Act, 1897, it is clear that Section 102 of the 2016 Act repeals 1995 Act and substitutes the same with 2016 Act qua acts done under 1995 Act.*

*27. To interpret Rule 3.27 of Rules 1970 in the manner that the term ‘disability’ shall have the meaning as defined in 1995 Act even though the same stands repealed would be interpreting the law as a dead being. Law is organic and the same has to be thus interpreted in a progressive manner and not in regressive manner. Reliance can be placed upon **Navtej Singh Johar vs. Union of India (2018) 10 SCC 1**. Once Act of 1995, a stands eclipsed and substituted by Act of 2016, obviously explanation 1 appended to Rule 3.27 of 1970 Rules has to be read in the light of disabilities as defined under 2016 Act, not as per the provision which stands eclipsed. The recognition under the enactment and the law is to the disadvantage faced by disabled. Even 1995 Act by way of Rules enacted thereunder recognized multiple disabilities. To reiterate and repeat the enactment is for the disabled and not for the disability.*

*28. Counsel for the respondent is not in position to dispute that conjoint reading of Section 2(r), 2(zc) and schedule appended to 2016 Act leaves no doubt that the petitioner falls within the ambit of definition of ‘person with benchmark disability’ as adumbrated under 2016 Act.*

*29. In view of the aforesaid, this Court finds that once the petitioner is held to be a person with benchmark disability, even though owing the multiple disabilities which has been recognized under Section 2(r) of 2016 Act as well as the rules framed under 1995 Act, there is no reason for the respondents to deny the claim of the petitioner for extension in service upto 60 years. This Court has no hesitation in holding that once Act*



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*of 1995 stands repealed and substituted by Act No.49 of 2016, explanation 1 appended to Rule 3.27 of 1970 Rules shall be read in the light of definition of 'person with benchmark disability' as defined under Section 2(r) of 2016 Act."*

22. A perusal of the impugned order dated 20.04.2026 (Annexure P-2), passed in compliance of order dated 24.03.2026, would show that it merely reiterates the earlier grounds of rejection without properly considering or appreciating the observations made in **Prem Nath's** case (supra) and Rule 3.27 or the provisions of the 2016 Act. Such reconsideration cannot be regarded as meaningful compliance with the earlier directions issued by this Court vide order dated 24.03.2026.

23. In view of the above discussion, the impugned orders dated 23.02.2026 (Annexure P-1) and 20.04.2026 (Annexure P-2), are held to be contrary to the statutory scheme and cannot be sustained. Consequently, the present petition is allowed and the impugned orders are, hereby, quashed and set aside. The petitioner is held entitled to continue in service up to the age of 60 years. Since the petitioner had already been retired on 28.02.2026 pursuant to denial of extension, the respondents are directed to permit him to continue in service forthwith till he completes the age of 60 years. The respondents are also directed to release all consequential service and monetary benefits to the petitioner, including arrears of salary for the period from 01.03.2026 till his re-joining.

24. The aforesaid exercise shall be completed within three months from the date of receipt of a certified copy of this order.

**19.08.2026**

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**(NAMIT KUMAR)  
JUDGE**Whether speaking/reasoned:  
Whether reportable:Yes/No  
Yes/No