

PETITIONER:
STATE OF HARYANA & ORS.

Vs.

RESPONDENT:
SURJEET SINGH

DATE OF JUDGMENT: 09/07/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIK (J)

CITATION:
JT 1996 (7) 202 1996 SCALE (5)493

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

We have heard learned counsel on both sides.

The respondent-Surjeet Singh was a driver of a heavy vehicle. He was appointed on December 24, 1986. The Medical Board on his examination by proceedings dated September 3, 1993 found that he was suffering from Melineal Inter Cr. fractum resue/lant by 5.2 un-c. Consequently, the Medical Board opined that he could not perform the duties of a heavy vehicle driver due to the above disability. Pursuant thereto, he was retired from service. He made an application for appointment of his son as a clerk on compassionate grounds on the basis of the instructions issued by the Government. The Government on consideration of his representation found that the respondent was neither blind nor nakara (totally invalid) on the date of his retirement and that, therefore, he is not entitled for appointment of his son on compassionate grounds as a clerk. Feeling aggrieved, he filed C.W.P. No.4088/95 in the High Court. The Division Bench of the Punjab & Haryana High Court by order dated August 29, 1995 held that the declaration of unfitness on medical grounds, in other words, his invalidity in the service, attracts the instructions issued by the Government dated August 28, 1992 and consequently he is entitled to have his son appointed on compassionate grounds. Calling that order in question, this appeal has been filed by special leave.

The only question is whether the instructions of the Government dated February 22, 1991 read with intructions dated August 28, 1992 enable an employee having become blind or nakara during service and compulsory retired from service on account thereof, to be entitled for appointment of his son on compassionate grounds. It is seen that the instructions do clearly indicate that an employee who was compulsory retired from service should suffer from blindness or nakara while in service and the compulsory retirement

should follow due to the above factors.

In this case, it is seen that he was neither blind nor nakara on the date of the compulsory retirement. The doctors found him that he was having deficiency in sight. Consequently, he could not drive the heavy vehicle. It would not mean that he was totally blind. Due to disability in sight, which is a pre-condition for safe driving of a heavy vehicle, he was retired from service and it would not mean that he was totally invalid or blind. But we are informed that pursuant to the directions issued by the High Court, the son of the respondent has been appointed and he is in service.

Under these circumstances, though we find that the view taken by the High Court is not correct in law, we decline to interfere with the order. However, the order of the High Court is not to be taken to be approved by this Court. On the other hand, we specifically hold that the view of the High Court is not correct in law. However, we decline to interfere with the subsequent order passed by the appellant-State pursuant to the directions issued by the High Court.

The appeal is accordingly disposed of. No costs.