Sr. No.222

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No. 1892 of 2015(O&M)
Date of decision:14.09.2016

Pradip Kumar and others

.....Petitioners

versus

Rakesh Kumar Bawa and another

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Ms. Veena Kumari, Advocate
for the petitioners.

Mr. Vikas Chatrath, Advocate
for the respondents.

Rakesh Kumar Jain, J.(Oral)

Counsel for the respondents has submitted that the respondents have understood the words used in the order dated7.05.2015 "*similarly-placed differently-abled persons*" as the persons having the same percentage of disability as that of the petitioners and therefore, appointment had not been given to 10 such persons. The detail has been given by the respondent in the application bearing CM NO. 18504-CII of 2016 wherein the percentage of their disability has been mentioned as 60% and above as against the detail of the candidates who have the disability between 40-50%.

In this regard, counsel for the petitioners has submitted that there is no upper limit of disability provided in The Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995(for short, 'the Act') in which Section 2 (t) provides the definition of "*person with disability*" which means *a person suffering from not less than forty per cent of any disability as certified by a medical authority"*. She has also submitted that as per Section 32 of the Act, the

appropriate government has to identify the post in the establishment for the person with disability.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the reason on the basis of which the respondents have denied the appointment to similarly situated persons is misconceived and hence, directions is issued to them to offer appointment to those persons also whose names are mentioned in the recent application bearing CM No. 18504-CII of 2016 in the first table. It is needless to mention that the respondents shall offer them regular appointments subject to the provisions of the Rules by which their service shall be governed.

With these observations, the present petition is hereby disposed of.

[Rakesh Kumar Jain]
Judge

14th September, 2016
Shivani Kaushik

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No