

appointed to the post of Inspector whereas the petitioner only was discriminated by way of giving lower post of Sub Inspector. If unfettered discretion is permitted to vest in the State and there are no norms laid down, it would necessarily result in favouring those who are yielding influence in the corridors of powers and those ordinary citizens who do not have such an influence would be treated entirely in a different manner. Such a course cannot be permitted as that would certainly violate the equality clause incorporated in Article 14 of the Constitution of India.

(6) For the reasons stated above, this petition is allowed. A direction is issued to the respondents of offer to the petitioner the post of Inspector if he otherwise qualifies for the post and might have good antecedents to the post under contention. It is not possible to give a direction to the respondents at this stage to treat the petitioner as having been appointed Inspector from the date when he was offered the post of Sub Inspector and therefore, on the basis of the judgment rendered today in his favour, he shall not be entitled to claim difference in pay or seniority. However, that would not mean that the State would take a very long time in offering the post to the petitioner and therefore, a further direction is issued to the respondents to do the needful exercise within a couple of months from today. Parties are left to bear their own costs.

J.S.T.

Before Hon'ble R. S. Mongia & M. L. Singhal, JJ.

EX. L. NK (DVR) MOHINDER SINGH,—Petitioner.

versus

UNION OF INDIA AND OTHERS,—Respondents.

C.W.P. 5579 of 1995.

5th February, 1996.

Constitution of India, 1950—Art. 226—Amendment to guidelines of Central Welfare (Risk Premia) Fund Scheme—Para 7 benefits to individuals who might be invalidated—Amputation above knee and not at hip level—Would be entitled to benefit of compensation under Para 7-B(i)—Object behind instruction is to rehabilitate Officer—To determine disability and not the exact place where limb is amputat-

Held, that there was permanent physical impairment of the petitioner and the permanent disability was evaluated as 80 per cent by the Experts in the C.M.C. The petitioner had been invalidated out from the C.R.P.F. because of the amputation of his leg and permanent disability. The object behind the instructions is to rehabilitate and compensate an officer who might have been incapacitated due to an injury suffered during service. What is to be seen is the disability and not the exact place as to from where a particular limb is amputated. Simply because in the present case, the left leg was amputated above knee and not at the hip level, it cannot deprive the petitioner to claim benefit under the instructions as the whole idea is to see the disability. The petitioner lost his job in the C.R.P.F. and the respondents should have seen to it that he is suitably compensated under the relevant instructions.

(Para 5)

R. S. Bajaj, Advocate, *for the Petitioner.*

J. S. Rathee, Sr. Standing Counsel with Sanjiv Pandit, and S. K. Sharma, Advocates, *for the Respondents.*

JUDGMENT

R. S. Mongia, J.

(1) The petitioner was working as a Constable (Driver) in 51 Battalion C.R.P.F. while he was on sanctioned leave, he met with an accident on September 17, 1988, at Jalandhar. As a result of the accident, his left leg was damaged. He was taken to Christian Medical College and Hospital, Ludhiana (hereinafter referred to as the C.M.C.) and after careful check up by the Board of Doctors, his left leg above knee had to be amputated. On December 16, 1988, the following medical certificate was issued by the C.M.C. authorities :

This is to certify that Mr. Mohinder Singh B-729401 was admitted in this hospital and an above knee amputation was done on left side. He has permanent disability of 80 per cent of his left lower limb according to Manual for Doctors to evaluate permanent physical impairment based on expert group meeting on disability evaluation."

The Commandant of the Battalion where the petitioner was working sent a communication dated March 15, 1989 (copy Annexure P-2) to the Chief Medical Officer, Base Hospital, C.R.P.F., New Delhi, intimating that the C.M.C. authorities had given the aforementioned medical certificate in case of the petitioner and requested that the Board of Officers may be detailed and the individual may also be

declared incapacitated for service due to amputation of his left leg. The Board issued a certificate that the petitioner's left leg above knee had been amputated and he is not suitable for C.R.P.F. job and should be invalidated out from the Force. *Vide* discharge order dated May 9, 1989, the petitioner was invalidated out from the C.R.P.F. on account of the certificate issued by the Medical Board.

(2) The Directorate General, C.R.P.F., had issued instructions on March 11, 1986, under the heading "Amendments to Guidelines of Central Welfare (Risk Premia) Fund Scheme, in which the benefits to the individuals who might be invalidated or payment to the nominees of the persons who might die were provided. In case of invalidation, the following provision was introduced :

"7.....

(a)

(b) *Invalidation Cases* :

(i) When a person becomes completely incapacitated or rendered absolutely immobile on account of disability like, complete insanity/total blindness total deafness/ amputation of both upper limbs at any level/amputation of one upper limb at shoulder level (right limb for right handed person) or left limb for left handed person) amputation of both lower limbs at any level/ amputation of one limb at hip level/paraplegia/ hemiplegia/guadriplegia/ankylosing spondilitis with complete stiffness of all major joins/Rheumatoid Arthertis with complete stiffness of all major joints, will be entitled a lump sum grant of Rs. 15,000 besides a recurring payment of Rs. 200 P.M. for 15 years.

(ii) In other and routine cases of invalidation lump sum grant of Rs. 15,000 only will be paid."

The aforesaid provision was further revised,—*vide* instructions dated June 2, 1988, copy Annexure P-6 (with effect from May 4, 1988). The amended provision reads as under :

"7....

(i) ...

i) *Invalidation Cases* :

When a person becomes completely incapaciated or is rendered absolutely immobile on account of disability

(Cases already defined under Para 2(b) (i) of letter No. RF.3/81—86 Adm. II dated 11th March, 1986) will be entitled to a lumpsum grant of Rs. 25,000 plus monthly recurring payment of Rs. 400 p.m. for 20 years or until death of force person whichever is later. Recurring benefits at the increased rates will also be applicable to the old cases under this category from May, 1988, onwards only.”

The petitioner who was invalidated out of the C.R.P.F. on account of permanent disability claimed benefit of the aforesaid instructions that he should be paid a grant of Rs. 25,000 plus monthly recurring payment of Rs. 400. However, the petitioner was granted only Rs. 15,000 under para 7(b) (ii) of the Instructions dated March, 11, 1986, already quoted above. This led the petitioner to file the present writ petition.

(3) Learned counsel for the petitioner argued that the petitioner was permanently disabled and even according to the medical certificate issued by the C.M.C., the disability was 80 per cent. On the basis of this disability, the petitioner was invalidated out of the C.R.P.F. According to the learned counsel, the object of the instructions issued by the respondents is to compensate and rehabilitate an employee who might be invalidated out because of the incapacitation suffered during the service. In support of his contention, learned counsel for the petitioner relied on a Division Bench judgment of this Court reported as *Ex. Naik Bhag Chand v. Director General, Central Reserve Force* (1), where the aforesaid instructions came up for interpretation.

(4) On the other hand, the case of the respondents is that according to the instructions dated March 11, 1986, if the amputation of one limb is at hip level, only then the individual is entitled to the benefit of para 7(b) (i) of the instructions as amended and since in the present case, the amputation of one leg was above knee and not at hip level, the petitioner was not entitled to benefit under para 7(b) (i) but could only be granted compensation under para 7(b) (ii) of the instructions dated March 11, 1986 and accordingly, he had been paid a sum of Rs. 15,000.

(5) After hearing the learned counsel for the parties, we are of the view that there is force in the contention of the learned counsel

For the petitioner. Admittedly, there was permanent physical impairment of the petitioner and the permanent disability was evaluated as 80 per cent by the Experts in the C.M.C. The petitioner had been invalidated out from the C.R.P.F. because of the amputation of his leg and permanent disability. The object behind the instructions is to rehabilitate and compensate an officer who might have been incapacitated due to an injury suffered during service. What is to be seen is the disability and not the exact place as to from where a particular limb is amputated. Simply because in the present case, the left leg was amputated above knee and not at the hip level, it cannot deprive the petitioner to claim benefit under the instructions as the whole idea is to see the disability. The petitioner lost his job in the C.R.P.F. and the respondents should have seen to it that he is suitably compensated under the relevant instructions. In *Ex. Naik Bhag Chand's case* (supra), which was decided by the Division Bench of this Court, the medical certificate issued to the petitioner in that case was as under :

“No. 690483678, Naik Bhag Chand of HQ/48 B. C.R.P.F. has been declared completely and permanently incapacitated for further service in this department by the Chief Medical Officer, Base Hospital-I, C.R.P.F., New Delhi,—*vide* Medical Certificate dated 26th July, 1988 in consequence of 1-1/4 years old operated case of fracture neck and supracondylar fracture right femur and cruciate ligament tear left knee joint with residual moderate restriction of right hip and knee with inability to climb stairs and sit across legged with I “shortening of right lower limb.”

The Division Bench came to the conclusion that the case of the petitioner in that case was covered by para 7(b) (i) of the instructions and he was entitled to the grant of the benefits under that para as amended by the latter instructions dated June 2, 1988. We are in respectful agreement with the view taken by the Division Bench.

(6) For the foregoing reasons, we allow this writ petition and direct the respondents to pay a lump sum grant of Rs. 25,000 to the petitioner under para 7(b) (i) of the Instructions dated March 11, 1986, as amended,—*vide* instructions dated June 2, 1988, and also a sum of Rs. 400 per month for twenty years with effect from the date the petitioner had been invalidated out or till his death whichever is earlier. The arrears so calculated be released to the petitioner within a period of three months of the receipt of copy of this order from this Court or a certified—copy thereof from the

petitioner. The respondents will be entitled to adjust a sum of Rs. 15,000 which has already been paid to the petitioner under para 7(b) (ii) of the Instructions dated March 11, 1986. We make no order as to costs.

J.S.T.

Before Hon'ble G. S. Singhvi & S. S. Sudhalkar, JJ.

M/S VIJAY KUMAR AND COMPANY,—Petitioner.

versus

THE STATE OF HARYANA AND OTHERS.—Respondents.

C.W.P. No. 18432 of 1995.

29th February, 1996.

Interest Act, 1978—Ss. 2, 3 & 4—Negotiable Instruments Act, 1881—Ss. 78 & 79—Code of Civil Procedure, 1908—S. 34—Punjab Excise Act, 1914—S. 34—Haryana Liquor Licence Rules, 1970—Rls. 35 and 36—Interest—Adjustment towards licence fee—Licencees required to deposit cash security for observance of terms of licence at the time of auction—Such cash security is in fact an advance licence fee and part of price for selling liquor—Claim for interest on security deposited and for adjustment against last instalment of licence fee is untenable—Licencees cannot claim interest under the Negotiable Instruments Act, Interest Act or on principles of equity—The Government's right to charge interest on default in payment of instalments cannot be read as imposition of a corresponding obligation on the Government to pay interest on the money deposited by the licencees—Government cannot be compelled to pay interest on its own money merely because it is described as security—Writ claiming interest on security is liable to be dismissed.

Held, that the petitioners volunteered to fulfil those conditions and thereafter the Governments granted licence to them. The petitioners cannot, therefore, challenge the terms and conditions incorporated in Annexure P-1 and the conditions of the licence by arguing that they are arbitrary or unreasonable.

(Para 5)

Further held, that the amount equivalent to 16-2/3 per cent of the annual licence fee though described as security in the Act as well as the Rules and Annexure P-1, in substance it is a price payable by the person who seeks licence to sell liquor—both country liquor and foreign liquor. The Government is possessed with the exclusive privilege to deal in the liquor and, therefore, the one, who wants to