



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

LPA No.148 of 2024 (O&M)
Date of Decision: 12.09.2025

THE PUNJAB AGRICULTURAL UNIVERSITY AND OTHERS

.....Appellants

Versus

MALKIT SINGH AND ANOTHER

.....Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. M.L. Saggar, Senior Advocate with
Mr. Deepak Agnihotri, Advocate and
Mr. Omesh Garg, Advocate,
for the appellants.

Mr. Amarjit Singh Virk, Advocate,
for respondent No.1.

Mr. A.S. Khara, Sr. DAG, Punjab.

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ANUPINDER SINGH GREWAL, J. (Oral)

The appellants have challenged the judgment of learned Single Bench dated 08.08.2023, whereby the writ petition preferred by respondent No.1 seeking his promotion under the Physically Handicapped category, has been allowed.

2. Learned counsel for the appellants-University submits that respondent No.1 was initially appointed as a 'Beldar' under the 'General Category' in 1992. However, he met with an accident in 2005 and was rendered physically disabled with disability assessed at 40%. Therefore, the appellants have not considered respondent No.1 for promotion against posts reserved for persons with disabilities as he was not appointed a 'Beldar'



under the said quota.

3. Learned counsel for respondent No.1, however, submits that respondent No.1 suffers from 40% locomotor disability, and therefore, he is entitled to be considered for promotion against the posts reserved for persons with disabilities. The appellants had invited applications from the regular employees who were working as Mali/ Beldar/Farm Worker/Head Mali for promotion to the posts of Budder and Plant Observer/Fieldman by way of issuance of advertisement dated 14.06.2012. The respondent No.1 had sought promotion in pursuance to the advertisement in the 'physically handicapped' quota which was wrongly denied to him by the appellants. He further submits that the appellants cannot discriminate between those persons who were disabled at the time of their initial appointment and those persons who had acquired disability during service. In support of his submission he has relied upon the judgment of the Supreme Court in the case of *The State of Kerala and others Versus Leesamma Joseph, (2021) 9 SCC 208*.

4. Heard.

5. Respondent No.1 was appointed as a Beldar with appellant No.3 in the General Category on 16.07.1992. In the year 2005, he met with an accident and sustained serious injuries, resulting in his being declared as having more than 40% locomotor disability. He had applied for promotion to the post of Budder and Plant Observer/Fieldman under the 'physically handicapped' quota pursuant to the advertisement. However, his claim was rejected by the appellants vide order dated 09.01.2013, on the ground that only those employees who had been directly appointed under the 'physically



handicapped' quota were eligible for promotion thereunder and as respondent No.1 had acquired disability during service, his case could not be considered for promotion under the said quota.

6. We are of the considered view that the issue as to whether a person who had acquired disability while in service would be entitled to promotion against the physically handicapped quota, has already been settled by the Supreme Court in the case of **Leesamma Joseph** (supra), wherein it has been held by the Supreme Court that a person who has acquired disability while in service has to be treated as a disabled person for all the benefits thereafter. The relevant extract of the judgment is reproduced hereunder:

“26. If we may say so, this was the most crucial issue which persuaded us to grant leave in the SLP. The direction in the impugned order was for the respondent to be considered for the promotion based on disability at the time when the claim originally arose, but subject to her seniority with reference to other PwD candidates entitled to such reservation. She was also held entitled to the notional benefits of her promotion from the date she was so found entitled. In the factual context, it has been pointed out by learned Amicus Curiae that the respondent had claimed a promotion to the post of UDC with effect from 1st July, 2002 and further to the post of Cashier with effect from 20th May, 2012. The endeavour of the Amicus Curiae was to obtain necessary information from the appellant-State and to seek their response. In this behalf, it has been pointed out that The Ministry of Social Justice and Empowerment in the Department of Empowerment of Persons with Disabilities (Divyang), Government of India has undertaken a very comprehensive exercise of identifying posts which can be reserved for PwD and the list of such posts are available on the website. From that it appears that the post of UDC/Cashier would be amenable to reservation for PwD and thus there can be little doubt that the respondent has been capable of discharging functions of the promotional post and thus could not be denied the benefit of reservation (even if Rules do not provide for any reservation in promotion) as repeatedly observed by us that Section 32 of the 1995 Act is to facilitate but not to impede the legislative mandate.

27. Now coming to the question of the respondent not being initially appointed in the quota for PwD in the feeder cadre, we note that there is no dispute about the benchmark disability of the respondent. It would be discriminatory and violative of the



mandate of the Constitution of India if the respondent is not considered for promotion in the PwD quota on this pretext. Once the respondent has been appointed, she is to be identically placed as others in the PwD cadre. The anomaly which would arise from the submission of the appellant-State is apparent - a person who came in through normal recruitment process but suffers disability after joining service would on a pari materia position be also not entitled to be considered to a vacancy in a promotional post reserved for a PwD. This is the consequence if the entry point is treated as determinative of the entitlement to avail of the benefits. Source of recruitment ought not to make any difference but what is material is that the employee is a PwD at the time for consideration for promotion. The 1995 Act does not make a distinction between a person who may have entered service on account of disability and a person who may have acquired disability after having entered the service. Similarly, the same position would be with the person who may have entered service on a claim of a compassionate appointment. The mode of entry in service cannot be a ground to make out a case of discriminatory promotion.”

7. It is thus manifest that respondent No.1, who had acquired disability during service, would be entitled for promotion under the ‘physically handicapped’ quota. We do not find any illegality whatsoever in the impugned judgment allowing the writ petition preferred by respondent No.1. Consequently, the Letters Patent Appeal being devoid of any merit stands dismissed. Respondent No.1 would be considered for promotion from the date when the similarly situated persons had been promoted and would also be entitled to all the consequential benefits.

8. All pending miscellaneous application(s) also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

12.09.2025
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No