

**COURT CASE/**  
**MOST IMPORTANT/**  
**DATE BOUND**

No.11/84/2024-1FR/17540  
**HARYANA GOVERNMENT**  
 Finance Department  
 (Finance Regulation Branch)

Dated : 28.08.2024

To

1. The Chief Secretary to Government Haryana (HRD, HR-I and Estb.-I/II/III).
2. All the Administrative Secretaries to Government Haryana.
3. The Registrar General, Punjab and Haryana High Court Chandigarh.
4. All Head of Departments in Haryana.
5. All the Commissioners of Divisions, Ambala, Karnal, Faridabad, Gurugram, Hisar and Rohtak.
6. All Deputy Commissioner and Sub Divisional Officers (Civil) in Haryana.

**Subject : To reconsider the Rule 143(1)(i) of HCS (General) Rules, 2016 for superannuation age of differently-abled employees.**

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Sir/Madam,

I am directed to invite your kind attention towards Rule 143(1)(i) of HCS (General) Rules, 2016, which has the following provisions:-

*the age of retirement on superannuation is fifty eight years for all groups of employees except the following for whom the same is sixty years:-*

- (i) *Differently-abled employees having minimum degree of disability of 70% and above.*

2. As per following details, Civil Writ Petitions have been filed by many differently-abled employees having less than 70% disability to extend their service beyond the age of superannuation for further 2 years because as per Section 2(r) of the RPwD Act, 2016 "person with benchmark disability" means a person with not less than 40% of a specified disability" :-

Sr.No.	CWP No. & Year	Name of petitioner	Name of concerned Deptt.
1.	6460 of 2023	Dilbag Singh	Power (HVPNL)
2.	17510 of 2023	Rajiv Kumar	Secondary Education
3.	26961 of 2023	Rekha Rani	School Education
4.	29482 of 2023	Hari Parkash	Agriculture
5.	1373 of 2024	Lalit Roopesh	Secondary Education
6.	<b>2340 of 2024</b>	<b>Jora Singh</b>	<b>Revenue</b>
7.	2824 of 2024	Satpal Singh	Secondary Education
8.	3145 of 2024	Sher Singh	Elementary Education
9.	3148 of 2024	Naresh Kumar	HVPN
10.	3307 of 2024	Satish Kumar	School Education
11.	3927 of 2024	Surjeet Singh	Dakshin Haryana Bijli Nigam
12.	4250 of 2024	Gajraj Singh	School Education
13.	4458 of 2024	Tarsem Singh	School Education
14.	4481 of 2024	Ved Parkash	Transport
15.	5411 of 2024	Pardeep Chand	Secondary Education
16.	5470 of 2024	Pradeep Kumar	School Education
17.	5476 of 2024	Parkash Singh	School Education
18.	5485 of 2024	Joginder Singh	Sports & Youth Affairs.
19.	5970 of 2024	Nirmala Devi	Food & Supply
20.	6476 of 2024	Pushpa Devi	Transport
21.	6490 of 2024	Gulzar Singh	Excise & Taxation

22.	6555 of 2024	Balwant Singh	School Education
23.	6569 of 2024	Sajjan Singh	School Education
24.	6662 of 2024	Raj Singh	School Education
25.	6678 of 2024	Braham Dutt	Revenue & Disaster
26.	6720 of 2024	Gulab Singh	School Education
27.	7297 of 2024	Surinder Singh	School Education
28.	7473 of 2024	Bir Singh	School Education
29.	7720 of 2024	Sumer Singh Bhuwal	Higher Education
30.	9857 of 2024	Karan Singh	Transport
31.	11326 of 2024	Shiri Bhagwan	Women & Child Development
32.	12637 of 2024	Kai ash Chander	School Education
33.	13159 of 2024	Ramesh Kumar	Transport
34.	13392 of 2024	Kamlesh Kumari	Treasuries & Accounts
35.	14179 of 2024	Murti Devi	Women & Child Development
36.	14352 of 2024	Ram Phal	Labour Department
37.	14876 of 2024	Om Parkash	School Education
38.	14921 of 2024	Vijay Saini	Women & Child Development
39.	16070 of 2024	Sushila Devi	School Education
40.	Many more.....		

3. In the main case (CWP No.2340 of 2024) of Jora Singh Vs. State of Haryana & Others, the Hon'ble Punjab and Haryana High Court had passed following interim orders on 27.02.2023:-

*"Notice of motion for 18.05.2023.*

*Mr. Hitesh Pandit, Addl. A.G., Haryana and Mr. D.S. Nalwa, Additional A.G., Haryana accept notice on behalf of respondent-State and seek time to file reply. May do so on or before the next date of hearing with a copy in advance to the counsel opposite. An important issue as to interpretation of Amended Rule 143 of the Haryana Civil Services General Rules, 2016 is raised in the matter.*

*Under the said Rule certain benefits are conferred on disabled persons/differently abled persons, blind employees, Group-D employees and Judicial Officers can be given an extension for 02 years beyond the age of superannuation.*

*Petitioner contends that fixing of a minimum degree of disability of 70% in amended Rule 143 to differently abled persons is arbitrary because the Provisions of the Rights of persons with Disability Act, 2016 fix only a 40% disability as a bench-mark disability; that similar provision contained in the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation Act, 1995) was considered by learned Single Judge of this Court in **Hardev Kaur Vs. State of Haryana and Others 2015 (3) S.C.T. 825** and in that case it was held that the similar policy of the State Government prescribing minimum degree of disability of 70%, was held to be illegal and was set aside. It is also brought to our notice that LPA No.732 of 2017 filed against the said order was disposed of on 30.10.2019 on the ground that in that case the respondent/writ petitioner was given the extension and the appeal was dismissed as infructuous leaving the legal question raised open.*

*Counsel for the State however, refuted the said contentions and relied on the decision of the **Himachal Pradesh High Court in 2021 Volume-3 SCT 216** and also the decision in **V. Surendra Mohan Vs. State of Tamil Nadu and others 2019 4 SCC 237** cited therein. Both these decisions relate to grant of reservation in direct recruitment and do not stand attracted to the instant case. We are of the considered view, prima facie that if the policy similar to that contained in the amended Rule 143 had been previously set aside by this Court in **Hardev Kaur's case (supra)**, and the State had acquiesced in it and granted extension to Hardev Kaur in that case, it would amount to discrimination if the petitioner in the instant case is denied the said benefit.*

*Therefore, pending further order the respondents are directed to permit the petitioner to continue to perform his duties until further orders.*

*A copy of this order be supplied to the learned counsel for the petitioner under the signatures of the Bench Secretary."*

4. In another CWP No.13392 of 2024 – Kamlesh Kumari Vs. State of Haryana & Others, the Hon'ble Punjab and Haryana High Court had also passed following interim orders on 30.05.2024:-

*"Notice of motion.*

*Ms. Tanisha Peshawaria, DAG, Haryana accepts notice on behalf of State and seeks time to file reply. May do so, on or before the next date of hearing with a copy in advance to the counsel opposite.*

*Learned counsel submits that the Rule amended by the respondents denying extension to disabled persons having disability more than 40% but less than 70% is per se discriminatory and goes contrary to the view expressed by the Supreme Court in the case of Deaf Employees Welfare Association vs. Union of India, 2014 (1) RCR (Civil) 377 as well as by this Court in Hardev Kaur vs. State of Haryana and others 2015 (3) S.C.T. 825. It is also stated that in the case of Hardev Kaur (supra), extension was granted. Learned counsel has also relied on the interim order passed on 27.02.2023 by the Coordinate Bench in CWP-2340-2023 wherein the concerned petitioner was allowed to continue to perform his duties. Learned counsel for the State submits that the petitioner has already been relieved from his duties treating him as superannuated at the age of 58 years on 30.04.2023.*

*However, we find that the extension of age of superannuation is of two years i.e. up to 60 years. Since interim orders have been passed in similar cases, we direct the respondents to allow the petitioner to rejoin on her duties, and she would be allowed to work up to the age of 60 years. Salary shall be paid to her for the period during which she works. The question relating to the intervening period and salary thereto shall be examined finally."*

5. The case of Deaf Employees Welfare Association vs. Union of India, referred to above, pertains to grant of transport allowance. Similarly, LPA in the case of State of Haryana Vs. Hardev Kaur was not decided on merits rather it had kept the legal question (fixation of 70% or more disability) open.

6. **In view of above, it is advised:-**

- i) to go through both the judgements, referred above in para-5;
- ii) interim orders (to continue/re-join service beyond the age of superannuation upto 60 years) passed in various CWPs may be got reviewed by apprising the Hon'ble Punjab and Haryana High Court about legal position;
- iii) all the CWPs may be got dismissed by apprising the Hon'ble Punjab and Haryana High Court accordingly.

7. Copy of this order is available on the official website of the Finance Department i.e. finhry.gov.in.

*Kamlesh*  
**Superintendent (FR)**

for Additional Chief Secretary to Govt. Haryana,  
Finance Department

*28/08/24*

Endst. No.11/84/2024-1FR/17540

Dated: 28.08.2024

A copy is forwarded to the following for information and necessary action:-

1. The Advocate General, Haryana, Chandigarh with the request to assign all such pending cases to one dedicated Law Officer (DAG/AAG) for defending the matter on behalf of State Government. Interim orders passed in various CWPs may be got reviewed by apprising the Hon'ble High Court about legal position, referred to above and all the CWPs may be got dismissed.
2. The Incharge, Computer Cell (Finance Department) for uploading these instructions on the website of the Finance Department.

*Kamlesh*  
**Superintendent (FR)**

for Additional Chief Secretary to Govt. Haryana,  
Finance Department

*28/08/24*