



In the High Court of Punjab and Haryana at Chandigarh

1.

CWP No. 3448 of 2014 (O&M)
Reserved on: 30.8.2024
Date of Decision: 18.9.2024
- R.S.Arneja and others

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
2.

CWP No. 14360 of 2014 (O&M)
- Inderjit Singh Kalra and others

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
3.

CWP No. 2275 of 2015 (O&M)
- A.K.Bhagat and others

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents
4.

CWP No. 16069 of 2015 (O&M)
- Om Parkash Bansal and another

.....Petitioners
- Versus
- State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Karan Nehra, Advocate,
Mr. Harvinder Singh, Advocate and
Mr. Abhay Josan, Advocate
for the petitioner(s).

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Naveen S. Bhardwaj, Advocate and
Mr. Tushar Gera, Advocate
for the respondent(s)/PSPCL.



SURESHWAR THAKUR, J.

1. Since in all the writ petitions (supra), a challenge is made to the notifications bearing No. 3/23/09-3FPPC/885 dated 17.8.2009, No. 3/39/09-3FPPC/201 dated 22.2.2010, both whereof were adopted by the Punjab State Electricity Board vide Finance Circulars No. FC 18/09 dated 15.10.2009 and FC 19/2010 dated 13.4.2010, whereby the pension of pre-2006 pensioners became purportedly revised. Therefore, all the writ petitions (supra) are amenable for a common verdict being made thereons.

Brief facts of CWP Nos. 3348 of 2014, 14360 of 2014 and 16069 of 2015

2. All the petitioners are pre-2006 retirees/past pensioners from the respondent department having respectively retired from the post of Engineers-in-Chief, Chief Engineers, Superintending Engineer, Additional Superintending Engineers and Senior Executive Engineers, after a length of service varying from 28 years to 35 years, and, who were enjoying the pre-revised pay scales of the respondent-department on or before 31.12.2005. The 6th Central Pay Commission was constituted by the Government of India for the revision of the pay scale of its employees. The recommendations of the 6th Pay Commissioner were accepted by the Government of India and orders were issued in August/September 2008. Subsequently, a separate 5th Punjab Pay Commission was constituted by the State of Punjab for revising the pay and pension of the employees serving in the State of Punjab. The 5th Punjab Pay Commission submitted its report on 20.4.2009 and recommended the revision of pay scales and pensions in line with the recommendations of the 6th Central Pay Commission as adopted by the Central Government. Thereafter the State of Punjab notified the Punjab Civil Service (Revised Pay) Regulations, 2009 on 17.8.2009, which were made



the State of Punjab, was adopted by the respondent department with minor changes and issued the Finance Circular No. 15/2009 dated 15.10.2009 (supra), which was made applicable w.e.f. 1.1.2006. Subsequently, the then Board issued Finance Circular No. FC 18/09 dated 15.10.2009 vide which two orders of the Punjab Government respectively bearing order No. 3/23/09-3FPPC/879 and bearing order No. 3/23/09-3FPPC/885 dated 17.8.2009 hence regarding the revised pension rules, were adopted. Thereafter the Board issued Finance Circular No. 19/2010 dated 13.4.2010 whereby became adopted the Punjab Government order No. 3/39/09-3FPPC/201 dated 22.2.2010 vide which the minimum pension for the pre-2006 pensioners based on the revised pay and grade pay corresponding to the minimum of each pre-revised pay scale was given. Subsequently, the respondent-department issued Finance Circular No. 04/2012 dated 12.3.2012 vide which Punjab Government order No. 3/23/09-3FPPC/1358 dated 15.12.2011 was adopted, which reduced the qualifying service required for full pension from 33 years to 25 years. However, this order was made applicable to those employees who retired on or after 1.12.2011 but the said benefit was not extended to the pre-2011 retirees/pensioners. This Court vide order dated 16.8.2013 quashed the said date of implementation i.e. 1.12.2011 and issued directions to implement the same w.e.f. 1.1.2006.

Brief facts of CWP No. 2275 of 2015

3. The petitioners served the erstwhile Punjab State Electricity Board in the cadre of the Engineers' but on different posts. The erstwhile Punjab State Electricity Board became unbundled into two electricity corporations, fully owned by the Government of Punjab. The services of the petitioners, who are the pre-2006 retirees, became allocated to Punjab State



Power Corporation Limited. At the time of their retirement, the pension payable to the petitioners was commuted to the extent of 100% in view of Rule 5.3 read with Rule 11 of the Punjab Civil Services Rules Vol-II. In view of the judgment of the Apex Court rendered in Contempt Petition No. 538 of 1997 and the policy implementation decision taken by the State of Punjab vide notification dated 22.3.2003, thus 1/3rd portion of pension of the petitioners was restored and the benefit of revision of pension as per the recommendations of 4th Punjab Pay Commission w.e.f. 1996, was given to the petitioners, but when vide the impugned circulars, the revision of the pay and pension was done w.e.f. 1.1.2006, yet the petitioners were declined the revision of pension and pay under clause 10(a). However, the State decided to grant the benefit of revision of pension in family pension cases to the surviving family members of the employee(s).

Submissions on behalf of the learned counsels for the petitioners

(in CWP Nos. 3348 of 2014, 14360 of 2014 and 16069 of 2015)

4. The learned counsel for the petitioners has argued before this Court, that:-

(i) The petitioners are entitled to the benefit of liberalized pension rule as has been made admissible to the new pensioners, who retire on or after the cut-off date i.e. 1.1.2006, as there cannot be any discrimination inter se the pre-2006 retirees and post-2006 retirees 1.1.2006, especially in view of the law laid down by the Constitution Bench of the Hon'ble Supreme Court of India in case titled as ***D.S.Nakara adothers versus Union of India*** reported in ***(1983) 1 SCC 305***.

(ii) The action of the respondents in not fixing the pension of the pre-2006 retirees rather equivalent to the pension drawn by post-2006



retirees is thus discriminatory and arbitrary and the same is liable to be set aside.

(iii) The provisions of Article 14 of the Constitution of India have been violated, inasmuch as, with the pensions rules being imbued with a statutory flavour, thereby the specifying of a cut-off date as 1.1.2006, rather has resulted in differential and discriminatory treatment becoming aroused in relation to the grant of pension to the same rank of employees.

(iv) The pay of all present petitioners, who are pre-2006 retirees, is liable to be notionally fixed at the rate given to their next-below juniors in the cadre working at the same rank with similar length of service in the same cadre after the revision of pay scales from 1.1.2006 onwards, and their pensionary benefits are to be computed on such basis, in accordance with pension rules as applicable to the employees retiring after 1.1.2006.

(v) The PB-5 class of employees have been discriminated against by the respondents concerned. As per the recommendations of the PSEB Pay Formulation Committee, the said grades were recommended to be merged with the PB-5. Further, the respondents have failed to consider that owing to the operation of rule (supra), the Head of the Department i.e. Chief Engineer and other engineers of high ranks i.e. SE and XEN have been equated with AE/AEE, who are the junior most in the Engineering cadre. Therefore, the pension rules suffer from patent discrimination, non application of mind and in contravention with the basic principles of Service Law Jurisprudence.

Submissions on behalf of the petitioners (in CWP No. 2275 of 2015)

5. The learned counsel for the petitioners has argued that:-

(i) After the revision of pay w.e.f. 1.1.2006, and, which was vide



the impugned Annexures, thus adopted by the Government of Punjab and the respondent-department, whereby the pension of pre-2006 and post-2006 pensioners has been revised w.e.f. 1.1.2006, thereby the petitioners, and, all the similarly situated persons under Clause 10(2) of the notification became arbitrarily discriminated.

(ii) The petitioners are required to be granted similar benefits qua restoring their 1/3rd pension as well as 100% pension along with all benefits w.e.f. 1.1.2006.

(iii) That in view of the notification dated 12.3.2012, once the qualifying service for full pension has been reduced from 33 years to 25 years of service, thereupon the pro-rata pension of the petitioners should be worked out accordingly w.e.f. 1.12.2011, however the benefit of reduction of qualifying service has not been implemented qua the petitioners.

Submissions on behalf of the respondent-Department

6. The learned counsel for the respondent has argued that the petitioners' claim is not maintainable as the impugned financial circulars provide adequate protection to the pensioners who retired prior to 1.1.2006. Moreover, the said pensioners were paid pro-rata pension where their service was less than 33 years. He has further argued, that the argument of the petitioners insofar as prescription of the cut-off date in the impugned circulars, thus being arbitrary and discriminatory, rather is unmeritworthy, as it is a trite law that serving employees, and pensioners are two separate class and that financial implication to the public exchequer, is a valid consideration while framing any policy having fiscal implication.

7. The learned counsel has placed reliance on a decision rendered by the Apex Court in case titled as ***Himachal Road Transport Corporation***



and another versus Himachal Road Transport Corporation Retired Employees Union reported in **2021(4) SCC 502**, to submit that the retired employees cannot claim the benefit of new schemes, which was not in existence at the time of their retirement. The relevant paragraphs of the judgment (supra) are extracted hereinafter.

“19. Coming back to the facts of the case on hand, by applying the case law which is [referred above](#), it is clear that all the members of the respondent-Union, while in service, were governed by Contributory Provident Fund Scheme. All those employees who retired before 05.06.1995, were paid all retiral benefits, applicable to them. As the Pension Scheme was not in existence during the relevant time, it was not the case of violation of any service conditions either. The Pension Scheme is introduced by way of notification dated 06.10.1995, by giving effect from 05.06.1995, on which date the Cabinet has approved the Scheme. The employees who were governed by the Contributory Provident Fund Scheme and retired prior to 05.06.1995 and the employees who were in service and continued after 05.06.1995, of the appellant- Corporation, cannot be treated as a homogeneous class. The retired employees, who were governed by the Contributory Provident Fund Scheme, on their retirement had already received the benefits of such Scheme, constitute different class than those employees who were in service as on 05.06.1995. There is a valid reason for giving effect to the Pension Scheme from 05.06.1995, though the notification was issued on 06.10.1995. The cut-off date, i.e, 05.06.1995 is fixed on the ground that the Cabinet has approved the Scheme from such date. As already noticed above, it is always open for the employer to introduce new Schemes and benefits, having regard to financial health of the employer. Whenever such new benefit is extended for the existing employees, retired employees cannot seek such benefit, merely on the ground that they too were the former employees of the Corporation. In spite of specific plea of the appellant-Corporation that the benefit of the Scheme was



extended from 05.06.1995, in view of approval granted by the Cabinet to the Scheme, the High Court has erroneously recorded a finding that no reason has been assigned to choose such cut-off date. It is true that all pensioners constitute one class and whenever, revision is effected, ordinarily such benefit is to be extended to all the pensioners but at the same time, the scenario in the case on hand, is totally different. On the facts of this case, it is to be noticed that when the members of the respondent-Union retired, there was no Pension Scheme at all. They were merely governed by the Contributory Provident Fund Scheme and, on retirement, they were already granted the benefit of such Scheme. In that view of the matter, only on the spacious plea that all the employees of the Corporation constitute homogeneous class, cannot question the cut-off date fixed for grant of Pension Scheme.”

Inference of this Court

8. The questions of law which arise for determination are-
- (i) Whether the prescription of 1.1.2006 as the apposite cut-off date for therebys the application of the new pay scales become assigned to the post-2006 retirees and the same becoming not assigned to the pre-2006 retirees, thus is a validly made cut-off date ?
 - (ii) Whether the pre-2006 pensioners who were not in service post 2006, were ipso facto entitled to the revised pay scales especially when post 2006 they did not render service under their employers ?
 - (iii) Whether with the Government of Punjab and with the respondent-department adopting the recommendations of the Central Pay Commission, which prior thereto became also accepted by the Government of India, whether therebys the said



created regimen, thus becomes unamenable for being challenged on any quarter ?

(iv) Whether the petitioners, who in terms of the verdict rendered by the Apex Court in Contempt Petition No. 538 of 1997, thus accepted the envisaged therein benefits relating to restoration of 1/3rd of fully commuted pension, whether therebys the petitioners become estopped to challenge the revision of pays as is done w.e.f. 1.1.2006 vide the impugned circulars ?

(v) Whether the petitioners who are the pre-2006 retirees have been treated on an unequal and dissimilar manner vis-a-vis the post-2006 retirees, especially when they purportedly belong to the same or homogeneous class of pensioners and/or whether there is disparity of treatment inter se pre-2006 retirees and post-2006 retirees, wherebys inter se the purported homogeneous class of pensioners rather an untenable invidious classification has been created ?

9. The benchmark for making an adjudication upon the instant case is clause 10, as becomes carried in Annexure P-4, clause whereof becomes extracted hereinafter.

“10. The cases of Punjab Govt. employees who have been permanently absorbed in public sector undertaking/autonomous bodies will be regulated as follows:-

(a) Pension

Where the Government employees on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, the pension of such absorbers will be updated in terms of these orders. In cases



where the Government employees have drawn lump-sum terminal benefits equal to 100% of their pension and have become entitled to the restoration of one third commuted portion of pension as per Supreme Court judgment dated 15.12.1995, their cases will not be covered by these orders.

(b) Family Pension

In case where on permanent absorption in public sector undertaking, autonomous bodies, the terms of absorption permit grant of family pension under the Punjab Civil Services Rules Vol.II, the family pension being drawn by family pensioners will be updated in accordance with these orders.”

10. Before proceeding to adjudicate upon the validity of the above extracted impugned clause, as carried in Annexure P-4, it is relevant to mention that Annexure P-4 creates a regimen for revision of pension vis-a-vis the pensioners/family pensioners w.e.f. 1.1.2006.

11. The above extracted impugned clause 10 though generates a grievance in the petitioners, to the extent the same purportedly creates disparity against the government employees who rather became excluded from the regimen (supra), as created in Annexure P-4, besides excludes them from the methodology as carved in (supra) for re-computation of their pension. The said exclusion, becomes stated therein to spur vis-a-vis those government employees who have drawn lump-sum terminal benefits equal to 100% of their pension and have become re-entitled to the restoration of one third commuted portion of pension, as per the judgment rendered by the Apex Court on 15.12.1995, in case titled as ***Welfare Association of Absorbed Central Government Employees in Public Enterprises and others versus Union of India and another*** reported in ***(1996) 2 SCC 187***, whereupon, such government employees become declared to be unamenable to become covered by the hereinabove extracted regimen, besides by the



above contemplated methodology for re-computation of pension.

12. Be that as it may, though the above irritant clause to the pensioners is employed by them to seek parity with post-2006 employees/retirees. However, the crucible of the litigation which has erupted between the contesting litigants, yet nonetheless becomes deeply entrenched rather in the non purveyings to the present petitioners, who are pre-2006 retirees, thus the benefits of the revised pay scales, as become conferred upon post-2006 retirees, and, concomitantly therebys enhanced pensionary benefits become bestowed only to the post-2006 retirees.

13. In other words, the gravamen of the challenge raised by the petitioners is related to the untenably non application qua them of the apposite fitment tables, tables whereof become extracted hereinafter, relating to Pay Band-5 of the revised pay and regulations and the consequent thereto notifications issued by the Punjab Government and which became adopted by the Punjab State Electricity Board (Annexure P-5).

“I. Fitment Chart-21

Pre-Revised Scale	15800-2100		
Revised Pay Band	41300-67000		
Old	REVISED PAY DETAIL		
Basic Pay	Pay in Pay Band	Grade Pay	Total
15800	41300	9600	50900
16250	41300	9600	50900
16700	42540	9600	52140
17150	42540	9600	52140
17600	43820	9600	53420
18100	43820	9600	53420
18600	45140	9600	54740
19100	45140	9600	54740
19600	46500	9600	56100
20100	46500	9600	56100
20600	47900	9600	57500



21100	47900	9600	57500
21600	49340	9600	58940
22100	49340	9600	58940
22600	50830	9600	60430
23100	50830	9600	60430

“II. Fitment Chart-22

Pre-Revised Scale	Revised Pay Structure Revised Pay Scale + Grade Pay		
18600-23100	41300-67000		
Basic Pay	REVISED PAY DETAIL		
	Pay in Pay Band	Grade Pay	Revised Basic Pay
1	2	3	4
18600	15140	10500	55640
19100	16500	10500	57000
19600	46500	10500	57000
20100	47900	10500	58400
20600	47900	10500	58400
21100	49340	10500	59840
21600	49340	10500	59840
22100	50830	10500	61330
22600	50830	10500	61330
23100	52550	10500	62860
23600	52360	10500	62860

“II. Fitment Chart-23

Pre-Revised Scale	22400-24500		
Revised Pay Band	67000-79000		
Old	REVISED PAY DETAIL		
Basic Pay	Pay in Pay Band	Grade Pay	Total
22400	67000	0	67000
22925	69010	0	69010
23450	71080	0	71080
23975	73230	0	73230
24500	75430	0	75430



14. Through the said notification(s), the pension of the pre-2006 pensioners has been revised on the ground that the qualifying service of the pensioners who retired post 2006 has been revised from 33 years to 25 years.. Moreover, though therebys after the pay revision becoming effected from 1.1.2006, there would be an immense difference in the pension payable to pre-2006 pensioners and the present petitioners despite the post-2006 and pre 2006 retirees, rather retiring from same rank and also rendering similar length of service. Therefore, therebys the petitioners claim that they are entitled to parity of treatment with post-2006 retirees, whereas, the impugned regimen becoming not applied to them, therebys the present petitioners' claim that they become arbitrarily treated or discriminated. Moreover, a challenge is also made to Annexure P-5 wherebys Annexure P-4 has been adopted by the respondent-department.

15. Reiteratedly, the crux of the grievance raised by the present petitioners relates to the respondents concerned, while making pay revision(s) effective from 1.1.2006 wherebys became created the fitment table relating to Pay Band-5 of the revised pay regulations. Resultantly, the benefit of the pay revision created thereunders becomes espoused to become untenably denied to the petitioners. The consequence thereof is contended to result in the present petitioners becoming not treated at par with the post-2006 retirees.

**Reasons for rejecting the submissions addressed by the learned
counsel for the petitioners**

16. However, for the reasons to be assigned hereinafter, the above made submissions do not find any favour from this Court, and, the same are hereby rejected. The reason for making the above inference is embedded in



purportedly belong to the same or a homogeneous class, and, were required to be similarly treated. Moreover, though vis-a-vis the pensioners belonging to the same or homogeneous class, thereupons disparities in the pension moneys payable to the same or similar class, thus could not be created, as thereby there would be perpetration of invidious discrimination to persons belonging to the same or homogeneous class.

17. Be that as it may, it is nobody's case that insofar as pre-2006 retirees are concerned, besides insofar as the apposite ranks of the pensioners concerned, to which pension moneys is to be uniformly liquidated, that there has been any ex facie apparent discrimination in respect of the apposite homogeneous class of pensioners either belonging to the same rank, and/or who have retired from service. Therefore, reiteratedly there appears to be no discrimination amongst the apposite homogeneous class or pensioners, nor there appears to be any discrimination inter se the pensioners who are at the time of superannuation belonged to the same rank, and, who as such were entitled to disbursement of uniform amounts of pension moneys. Contrarily, the lis which has erupted amongst the parties is epicentered on the non purveying to the present petitioners, who are pre-2006 retirees, thus the benefits of pay revision, as became granted to the post-2006 retirees. The revisions of pay, as were made in respect of post-2006 retirees, appear to have been made on the basis of theirs being serving in service. Consequently, the post-2006 retirees who were in service, and, to whom the benefits of pay revision became accorded, do therebys stand on an entirely different pedestal/class, than those pensioners who are pre-2006 retirees, and, who obviously being not in service, naturally qua them, the pay revision was not applicable. Significantly, as the pay revisions are applicable



only to those employees who were in service at the time of coming into force of the pay revision regimen or regulations. Conspicuously also, therebys the pre-2006 retirees are only required to be accorded the corresponding enhancements in their respectively drawn pensions, as has been done in the instant case, wherebys no financial detriment becomes onset vis-a-vis the present petitioners.

18. Furthermore, in case the benefits of pay revisions are accorded to the present petitioners, who were never in service at the time of according of benefits of pay revisions, therebys it would result in unjust enrichment being endowed qua them. Moreover therebys, the principle of no pay for no work would become breached. As such, the difference in pay revisions vis-a-vis pre-2006 retirees and post-2006 retirees, when is well banked upon the post-2006 retirees being in service, whereas, pre-2006 thus not being in service. Resultantly, the said inter se difference is neither arbitrary nor discriminatory, nor therebys the pre-2006 retirees and post-2006 retirees belong to a homogeneous class, nor therebys the said inter se difference creates any invidious discrimination insofar as the pre-2006 retirees are concerned. Upon coming to the conclusion (supra), this Court finds some support from the judgment rendered by the Apex Court in ***Himachal Road Transport Corporation***'s case (supra).

19. The enhancement or revision of pay scales is strictly in accordance with the consumer price index, as such, the revision or enhancement in pay, is somewhat different from revision or enhancement in pension. The former relates to in service employees, whereas, the latter relates to superannuated employees. Moreover vis-a-vis the former in case there is an increase in the price index, thereupon the commensurate



increases in dearness allowances payable on the pension amounts, but curtails the ill effects of increase(s) in the price index. Consequently therebys, there is mitigation vis-a-vis the financial distress brought by the increase in the price index, even insofar as the superannuated employees are concerned, and, vis-a-vis whom there is no revision of pay as they were at the relevant time not in service.

20. Moreover, it is not obligatory for the respondents to assign the benefits of pay revision to the superannuated employees, initially on the ground, that the same may ill affect the principle of no work no pay. Secondly, on the premise that therebys there would be an ill fall-out upon the public exchequer, especially when immense financial burden would ensue upon the public exchequer, in case the superannuated employees, who naturally were not in service at the time of revision of pay taking place, thus become assigned benefits thereof. To obviate the above onerous burden on the public exchequer, it appears that the benefit of pay revision has been granted to post-2006 retirees, and the same has not been granted to pre-2006 retirees. Therefore, the challenge to the fitment table (supra) is rudderless. Moreover, reiteratedly the challenge to the fitment table (supra) is also rudderless, as it has been done strictly in terms of the judgment passed by the Apex Court in ***Welfare Association of Absrobed Central Government Employees's*** case (supra).

21. In addition, the fact that there is no financial impact vis-a-vis the family pension, whereas, there being a financial impact vis-a-vis the above extracted clause 10(a) qua pre-2006 qua surviving pensioners, therebys there occurring a disparity inter se surviving superannuated employees, thus vis-a-vis their dependents also rather cannot be construed to



be arbitrary. The reason for so concluding emanates, from the factum, that insofar as family pension component is concerned, thus a specific rule has been carved which does take into account the fact whether the deceased employee, during his lifetime did or did not, and, to what extent commute the pension payable to him at the time of his superannuation. Resultantly, therebys there appears to be no discrimination inter se the surviving pensioners and the component of family pensioners, especially when they belong to altogether different classes. Moreover, the impugned circulars are in terms of the recommendations of the 6th Pay Commission, as became accepted by the Government of India, whereafter the said recommendations also became accepted by the respondents concerned, leading to the issuance of the impugned circulars. Moreover, when in terms of the verdict rendered by the Apex Court in Contempt Petition No. 538 of 1997, 1/3rd portion of the fully commuted pension has been restored to the pre-2006 retirees. Resultantly when therebys the financial mitigation has been done to the pre-2006 retirees, whereas, it may not become endowed upon the post-2006 retirees. Consequently therebys the petitioners are estopped from claiming that the purported besettings of financial distress upon them, thus upon increase in the consumer price index rather remains unallayed, upon non purveying to them the benefits of the pay revisions. Conspicuously when the stated supra benefits of pay revisions are to be bestowed to in service employees, and not to those who at the relevant time were not in service, as the present petitioners are.

Final Order

22. The result of the above discussion, is that, this Court does not find any merit in the instant petitions, and, is constrained to dismiss them.



Consequently, all the instant petitions are dismissed. The impugned notifications are maintained and affirmed.

23. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

September 18, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No