



CWP-27486 of 2022

-1-

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

255

CWP-27486 of 2022 (O&M)

Date of decision: 25.11.2024

Smt. Manjeet Kaur Sidhu

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Navdeep Singh, Advocate
for the petitioner.

Mr. Indresh Goel, Sr. Panel Counsel, Union of India.

AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for directing the respondents to process the claim of the petitioner for release of pro-rata pension and consequential family pension as raised vide detailed representations dated 22.07.2021 and 11.03.2022 (Annexures P6 and P8, respectively) which was as a matter of fact accepted vide letter dated 15.01.2022 (Annexure P3) issued with an approval by the appointing authority as has been recorded in para 8 thereof. However, without referring to the same and also wrongly distinguishing the judgment in **Yashwant Hari Katakhar vs. Union of India**, (1996) 7 SCC 113, even though the appellant therein and the petitioner had retired on their own request.

2. Reliance by the learned counsel is made to yet another judgment in **KK Dhir vs. Union of India and others**, 2006 SCC OnLine Del 1450, involving identical facts, relevant paras whereof read thus:-

“10. Respondents firstly raised a preliminary objection that the petitioner is guilty of delay and laches and his claim for prorata pension is barred by Limitation as he ought to have moved the



legal machinery within one year of rejection of his first representation dated 30.6.97. Further, in terms of Article 102 of the Limitation Act, reliance has been placed on Anand Swarup Singh v. State of Punjab wherein, in a suit for arrears of pension, the court held that the plaintiff could only recover the arrears of pension for three years. On merits, it was argued that the applicant had resigned from his service voluntarily of his own accord, and was not an absorbee in the ONGC. Further it has been contended that though the petitioner applied to join ONGC through proper channel on 24.2.1965 and his resignation from the Government was permitted to be withdrawn in public interest on 28.8.1965, his second resignation from the Government and rejoining ONGC was a unilateral act for which no permission was obtained by the Petitioner from the respondents. In this regard Rule 26 of the CCS (Pension) Rules 1972 was pressed into service to say that in this case Resignation from service would entail forfeiture of service. Further, the conditions stipulated in Rule 37 of the CCS(Pension) Rules 1972 which grants the right to seek prorata pension, were also not fulfilled, as the absorption in ONGC was not declared to be in public interest by the Government. He relied upon V.R. Chadha (supra) and contended that this decision was not considered in Har Binder Lal's case (supra). He also relied upon OM dated 3.1.1995 bearing No. 4(6)/85P&PW(D) to contend that the petitioner was not eligible for prorata pension.

13. The issue with regard to grant of prorata pension to those government servants who had joined a PSU after rendering more than 10 years of government service is a matter which has seen widening of the door from time to time, either by the Government itself or by Judicial pronouncements. Initially such benefit was sought to be restricted by fixing a cut off date and by stipulating that the movement from Government service to a PSU should be a transfer or deputation as opposed to a move by the Government servant of his own volition. An additional condition was added that the move should have been declared by the Government to be in the Public Interest. These requirements had their roots in FRs 26 & 37. So far as the cut off dates fixed by the Government are concerned, following D.S. Nakara (supra) and Thiruvengadam (supra), it stands concluded that such classification on the basis of a cut off date which is fixed without any rationale would be arbitrary. Therefore, merely because the petitioners case pertains to 1965/1966, he cannot be denied prorata pension, if otherwise he fulfills the requirements for grant of this benefit. So far as the twin conditions that (i) the Government Servant should have been first transferred/deputed to the PSU and thereafter got absorbed in the PSU, as opposed to his movement of his own volition and (ii) his movement to the PSU should have been declared in Public Interest, is concerned, the same have also been relaxed by the Government from time to time, as would appear from the Government O.Ms of 1968, 1972,

1977 and 1991. Once these conditions have been relaxed, it does not stand to reason that these relaxations should be only from and after a cut off date, which has no rational basis. The relocation would be applicable to all such Government servants who join PSUs even before such arbitrarily fixed cut off dates. Consequently, in our opinion, all Government servants, who had 10 years or more of qualifying service before they moved to PSUs, either on transfer/deputation, or of their own volition, and in respect of whom there was a declaration of their move being in Public Interest or not, would be entitled to prorata pension. Pension, it has been held is not a bounty payable on the sweet will and pleasure of the Government. The right to receive pension is a valuable right vesting in a Government servant. It is not an ex gratia payment. It is a payment for the past services rendered. (Reference may be made to Deokinandan Prasad v. State of Bihar and Subrata Sen v. Union of India.”

3. Further reference is made to para 6 of the written statement filed by respondent No.5 wherein it has been stated that case of the petitioner was under process for re-submission to MoD (BR) along with HQ DGBR Legal Cell opinion and thus, learned counsel for the petitioner prays that a time bound direction may be given to the respondents to decide the claim of the petitioner.
4. Learned counsel for the Union of India, on instructions, submits that the same shall be considered and decided within a period of 3 months, taking into account the aforesaid judgments and hearing the petitioner and in case, the petitioner is found entitled, she would be released the due benefits, within a period of 4 weeks thereafter.
5. Disposed of accordingly.
6. However, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case.

25.11.2024
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No