

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

CWP No. 10614 of 2012 (O&M)

Date of decision: 27.04.2015

Rajinder Singh

...Petitioner

Versus

Punjab State Warehousing Corporation.

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. G.S. Bal, Senior Advocate with
Mr. A.D.S. Bal, Advocate for the petitioner.

Mr. K.B. Raheja, Advocate for the respondent.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks issuance of directions to the respondent to consider the claim of the petitioner for grant of pension.

It is contended that the petitioner joined the office of respondent as Technical Assistant on 17.05.1976. Due to pendency of disciplinary proceedings, the petitioner was placed under suspension, vide order dated 15.12.1993 (Annexure P-3) and a penalty of removal was imposed upon him, vide order dated

16.08.1996 (Annexure P-4). It is further submitted that the pension scheme was implemented in place of CPF Scheme for the employees of the Corporation w.e.f. 01.01.1986. The employees of the Corporation were asked to submit their option to switch over to pension scheme, however, the since the petitioner was under suspension and later on was removed from the service, the option for adopting pension scheme could not be furnished. On 05.07.1996, the petitioner was reinstated into service and after attaining the age of superannuating, he retired on 31.05.2010. It is further asserted that the petitioner served various representation and legal notice upon the respondent but in vain.

The learned counsel cites Dakshin Haryana Bijli Vitran Nigam & others Vs. Bachan Singh, 2010(1) RSJ 274, Dilwar Singh Vs. Haryana Power General Corporation Ltd., and others, 2006(3) RSJ 689, Ram Dia and others Vs. Uttar Haryana Bijli Vitran Nigam Ltd., and another, 2005(4) RSJ 689, Pepsu Road Transport Corporation Vs. Balwant Singh, 2007(2) RSJ 518 and Gurdeep Singh Cheema Vs. State of Punjab and another, rendered in CWP No. 24221 of 2011, decided on 04.07.2013 of this Court.

On the other hand, the learned counsel for the respondent-Corporation states that the pension scheme was notified on 22.03.1996. The petitioner though remain terminated but he was

reinstated, vide Annexure P-6. His reinstatement order itself clarify speaks that the period the petitioner remained out of service was to be treated as such and that period was not counted towards qualifying service. The petitioner retired on 31.05.2010. As per the scheme, an employee had to submit an option within a period of three months from the date of issuance of the circular. The petitioner had given his option for pension on 17.12.2010, after a period of seven months from his retirement. Moreover, the petitioner had served legal notice under Section 80 CPC (Annexure P-8), therefore, the petitioner would redress his grievance before the Civil Court and as such, the present writ petition is not maintainable.

I have heard the learned counsel for the parties and have gone through the record minutely.

Indisputably, the petitioner was removed from service, vide order dated 16.08.1996 (Annexure P-4) and on an appeal preferred by the petitioner, he was reinstated into service, by way of order dated 05.07.1999 (Annexure P-6). The Pension Scheme came into force w.e.f. 01.01.2006 and was notified to the employees of Corporation on 1996. As the petitioner was under suspension, he could not exercise the option for pension scheme and the delay on the part of the petitioner is on account of circumstances beyond his control. Even, there is nothing on record to suggest that he was ever informed of the implementation of the pension scheme. In the

circumstances, the denial of benefits of the pension scheme to the petitioner would be unjustifiable.

Keeping in view the above facts and circumstances of the case, the present petition is allowed. The petitioner is held entitled to the benefit of the Pension Scheme. The respondent-Corporation is directed to consider the claim of the petitioner and finalize the same within four months from the date of receipt of a certified copy of this order.

27.04.2015

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(JITENDRA CHAUHAN)
JUDGE