

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

CWP No. 1383 of 2015

DATE OF DECISION : 28.01.2015

Dharam Devi

.... PETITIONER

Versus

State of Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. S.K. Malik, Advocate,
for the petitioner.

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SATISH KUMAR MITTAL, J. (Oral)

The petitioner, a retiree from the office of the respondents, has filed the instant writ petition challenging the proviso to Rule – 5 (1) (iv) of the Haryana Civil Services (Revised Pension) Part-I Rules, 2009. She is also seeking direction to the respondents to reconsolidate her pension by allowing 40% fitment weightage on existing pension i.e. by merging 50% of dearness allowance in basic pension.

Learned counsel for the petitioner submits that for claiming the aforesaid relief, legal notice dated 15.11.2014, copy of which has been annexed with the petition as Annexure P-5, had been submitted to the respondents. However, till date, no decision has been taken on the said legal notice. Learned counsel further submits that similarly situated retirees had

filed many writ petitions, which were disposed of by this Court vide a common order dated 17.02.2014 passed in CWP No. 15479 of 2012, titled as Debi Singh Deswal and others versus State of Haryana and others, which reads as under :

“By filing the above said writ petitions, the petitioners, who retired from service before 01.01.2006 lay challenge to the provisions under Rule-5 (I)(iv) of Haryana Civil Services (Revised Pension) Part-I Rules, 2009 (Annexure P-3). It was prayed by the petitioners that the respondents be directed to re-consolidate their pension and family pension by allowing 40% fitment weightage on existing pension/family pension i.e. by merging 50% of dearness allowance in basic pension/family pension.

It is the primary prayer of the petitioners that their pension be fixed in the same manner as was fixed qua those retirees, who retired after 01.01.2006.

*At the time of the arguments, it was conceded by both the parties that the issues involved in the case is squarely covered by ratio of judgment passed by Division Bench of this Court in **R.K. Aggarwal and others v. State of Haryana and others in Civil Writ Petition No.19641 of 2009, decided on 21.12.2012.***

*In this view of the matter, we dispose of all the writ petitions in terms of the order passed in **R.K. Aggarwal's case supra.** The order passed be implemented qua the petitioners, who retired before 01.01.2006 and also qua others who are similarly situated but have not filed petitions so as to avoid unnecessary litigation.”*

Learned counsel for the petitioner prays that the instant writ petition may also be disposed of with a direction to respondent No.2 to consider and decide the aforesaid legal notice dated 15.11.2014 (Annexure

P-5) in accordance with law. He further prays that while deciding the legal notice, respondent No.2 be directed to consider the order passed by this Court in *R.K. Aggarwal and others v. State of Haryana and others in Civil Writ Petition No.19641 of 2009, decided on 21.12.2012.*

In view of the above, after hearing learned counsel for the petitioner and without issuing notice of motion as it will un-necessary delay the matter, this petition is disposed of with a direction to respondent No.2 to consider and decide the aforesaid legal notice dated 15.11.2014 (Annexure P-5) in accordance with law, expeditiously, preferably within a period of four months. While deciding the representation, respondent No.2 may consider the decision of this court reproduced above, if the same is applicable to the facts of the present case.

**(SATISH KUMAR MITTAL)
JUDGE**

January 28, 2015
ndj

**(DEEPAK SIBAL)
JUDGE**