IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17660 of 2015 (O&M)
Date of Decision: 04.11.2015

Resham Lal Monga and others

... Petitioners

Versus

The State of Punjab and another ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gurbachan Singh, Advocate,
for the petitioners.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. This is a joint petition filed by seven pensioners who retired from the Education Department, Punjab and have their pension accounts in different Banks located in District Muktsar Sahib. Petitioner 3 is the youngest among the lot. She was born on October 31, 1951 and retired on October 31, 2009. Except petitioners 3 and 6 the rest are above 65 years of age. The said two petitioners will complete 65 years of age in February and October next year. Their claim is still premature but they have a common cause to espouse, the two in anticipation, and a common grievance and thus a joint petition has been filed and it is urged it is maintainable. The other petitioners have joined hands with the petitioner 1 without raising dispute with the department through requests in writing by way of representations.

2. Normally a writ will not issue in anticipation of invasion of rights which have not crystallized on the date of the petition. Therefore, the

petition qua petitioners 3 and 6 is dismissed at this stage being premature.

3. The petitioner 1 is the eldest amongst the petitioners. He was born on April 18, 1931. He retired from service on April 30, 1989 from the Department of Education, Punjab as Headmaster of a Government School. He claims in this petition, like the others, the monetary benefit of enhanced rate of pension under policy circular (P-1) which grants old age allowance to senior citizen pensioners in 5 year slabs periodically increasing the percentage of old age allowance from 5% onwards based on revised basic pension/family pension, as the case may be, starting age of 65 years when right matures from the age groups 65 to less than 70, from 70 to less than 75 and so on and so forth. In case the pensioner lives up to 100 years of age the old age allowance becomes one hundred percent of the revised basic pension. The policy issued on December 22, 2011 decides on the quantum of pension available to old pensioners in modification of the earlier policy dated August 17, 2009. The orders dated December 22, 2011 came into force with effect from December 1, 2011. The enhanced rates shall be effective prospectively and there shall be no element, whatsoever, of retrospectivity in this regard. It was further ordered that there shall be no question of payment of arrears or of notional benefits from any previous date. The benefit being a concession has to be strictly construed.

4. The request of petitioner No.1 has been returned in the original by the District Treasury Officer with a note penned in hand on the representation itself that the benefit can be given only when he turns 85 years of age to claim the additional 35% of the revised basic pension. The petitioner is still short of 85 years. The petitioner is presently in the age

bracket 80 to 85 years which earns 25% of revised basic pension towards Old Age Allowance. He had turned 80 years of age by the time the policy of revised rates was notified on December 22, 2011. Prospectivity in the policy circular would run from December 1, 2011. On the date of enforcement of the policy the petitioner was 80 years, 7 months and 13 days old and became entitled to 25% enhancement admissible at the 4th stage in the table incorporated in the policy circular. He would turn 85 years of age on April 17, 2016. However, in his representation dated June 5, 2015 he has claimed the 5th slab benefit of 35% in anticipation.

5. The petitioner has an anticipated right to the monetary benefit in the 4th Slab which brings 25% extra if not 35% presently for which he has to wait for a few more months. Hence the District Treasury Officer, Sri Muktsar Sahib was not wrong in returning the request without processing the case of petitioner 1 in the 4th Slab of the circular in advance.

6. The petitioner 1 and the rest of the petitioners assert that on completion of 84 years or 64 years, as the case may be, they were running the 85th year or 65th year and therefore qualified the 1st or 5th Slab benefits. This interpretation is erroneous. The circular is clear enough on how the calculation of age is to be made. The expression "less than" is used in the Table reproduced in the circular. This means that the petitioner is less than 85 years of age and will remain so till one day short of his birthday falling in 2016 which is yet to come. Presently he is in the bracket "From 80 years to less than 85 years" entitling him to 25% addition. For 35% he must be within the slab "From 85 years to less than 90 years". The contention that petitioner 1 has completed 84 years and is running the 85th year and

therefore he is 85 years of age for all intents and purposes is not acceptable as such an interpretation would be contrary to the circular. Similarly, the remaining petitioners are also short of the slabs claimed in advance either at stages 65, 70 or 85 years, as the case may be.

7. The petition is misconceived at the stage brought and is also premature and is accordingly allowed to be dismissed as withdrawn. Needless to say that when the right matures on completion of 65, 70 or 85 years of age they will be granted the higher Old Age Allowance without delay and without awaiting request from the petitioners and similarly situated pensioners without compelling them to approach Court and wasting any further time.

(RAJIV NARAIN RAINA)
JUDGE

04.11.2015
manju