

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1449 of 2013 (O&M)
Date of Decision:- 14.05.2015.

N.P. Sharma

.....Appellant

Versus

Haryana Power Generation Corporation Ltd. and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Jagbir Malik, Advocate for the appellant.

Mr. P.S. Poonia, Advocate for the respondents.

SURYA KANT, J. (ORAL)

1.) The appellant challenges the order dated 12.02.2013, whereby learned Single Judge has dismissed his writ petition *in limine*, in which he sought a direction to the respondent-Corporation to allow him to switch over from EPF Scheme to Pension Scheme.

2.) The facts may be noticed briefly. The appellant joined the respondent Corporation as a Boiler Operator on 01.04.1979. That post was subsequently re-designated as Junior Engineer Thermal/Junior Engineer Generation in the erstwhile Haryana State

Electricity Board now known as the respondent-Corporation. It appears that the appellant while in service had opted for EPF Scheme and subsequently he wanted to switch over to Pension Scheme but his request was turned down.

3.) The appellant retired from service on 30.04.2006 on attaining the age of superannuation. Thereafter, he again applied for switching over from EPF to GPF Scheme but his request having been rejected vide communication dated 14.08.2012, he approached this Court. Learned Single Judge has dismissed the writ petition on the ground of delay and laches as the appellant had retired from service on 30.04.2006 whereas the writ petition was filed in the year 2012.

4.) We have heard learned counsel for the parties and gone through the record.

5.) There is no gain saying that claim for grant of pension is a continuous cause of action and it cannot be turned down being barred by delay or laches though equities can always be balanced between the parties.

6.) Adverting to the merits of the case, it is not in dispute that in the year 1986, the respondent-Corporation itself introduced a scheme whereunder the employees were permitted to switch over from EPF to Pension Scheme. This Court has also in a catena of decisions held that if a more beneficial scheme was introduced subsequently, the employees are entitled to avail the benefit of such

Scheme though ensuring that whatever benefits have been drawn by them under the old scheme must be refunded with interest. One of such order dated 13.02.2012 passed by a learned Single Judge in the case of similarly placed employees of the respondent-Corporation has been relied upon by the appellant also (**Karta Ram Vs. State of Haryana and others**) CWP No.11430 of 1999 (Annexure P-3).

7.) We are informed that the order Annexure P-3 has since been implemented and those employees have been allowed to switch over from EPF to pension scheme.

8.) CWP No.15434 of 1997 decided on 18.08.2004 (**Ravi Dutt Mehta Vs. State of Haryana and others**) is also a similar instance where the employee was permitted to switch over from EPF Scheme to Pension Scheme. A similar direction was issued in **Randhir Singh Vs. State of Haryana and others** by one of us (Surya Kant, J.) (CWP No.225 of 2009 decided on 07.07.2010) subject to the writ petitioner depositing the entire amount of EPF along with interest at the rate prescribed by the authorities.

9.) This very aspect was deliberated in **Jaswant Singh Chaudhary Vs. H.V.P.N.L. and others** (CWP No.11209 of 2009) decided on 15.12.2011 against which Letters Patent appeal as well as SLP have also been dismissed.

10.) In the light of the above referred decisions, coupled with the Corporation's own policy, we see no reason to single out the

appellant from the benefit of Pension Scheme merely because there has been delay on his part in approaching the Court, moreso when no prejudice would be caused to the respondents on account of such delay. Consequently, the Letters Patent Appeal is allowed. The order passed by the learned Single Judge is set aside and as a result the order dated 14.08.2012 passed by the Corporation is quashed with a direction that if the appellant deposits the entire amount of EPF received by him along with interest as per the rules/instructions applicable in the respondent-Corporation from time to time, the respondent-Corporation shall permit the appellant to switch over to the pension scheme. The arrears of pension shall be paid to the appellant within a period of three months from the date of deposit of the amount of the EPF of the appellant.

11.) The respondent Corporation shall inform the appellant within two weeks from the date of receipt of certified copy of this order, the amount of EPF along with interest which is required to be deposited by the appellant.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

May 14, 2015.

sandeep sethi