

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

Date of decision: 25.02.2016

CWP No.21889 of 2010

Darshan Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.K.Arora, Advocate, for the petitioner.

Mr. Inqulab Nagpal, AAG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

1. The claim in this petition is for a second opportunity to exercise option by changing the first option from 1st January, 1996 to 1st October, 1996. The change is necessitated because of loss of proficiency step-up increments for the period of ad hoc service which were declared not to be reckoned. As a result, the basis of option exercised in the first instance has been removed by supervening events. This revives right to make a fresh option. This right has been denied forcing the petitioner to take legal recourse by way of the instant petition.

2. The issue is no longer *res integra* as it has received judicial recognition in the Division Bench judgment of this Court rendered in Randhir Kaur & others Vs. State of Haryana & others, 2003 (2) SCT 240. The principle is proliferated in a Single Bench decision also relied upon by the petitioner delivered in CWP No.7464 of 2010 titled 'Surinder Kumar & others Vs. State

of Punjab & others' on 25th February, 2010. In view of the declaration of law, the present petition would eminently be covered by the same principle.

3. However, in the matter of grant of relief, the same will remain restricted in terms of para.10 of *Surinder Kumar*'s case the operative passage of which is reproduced as under:

“(10). Consequently, the writ petitions are allowed in part to the extent that while the respondents are directed to permit the petitioners to re-exercise their options in terms of the Finance Department's Circular dated 24.12.1992 (Annexure P1) within a period of one month from the date of receipt of a certified copy of this order, no resultant arrears of pay shall be paid to them and they shall be entitled to only the notional pay fixation w.e.f. 01.01.1986, 01.01.1996 and 01.01.2006, as the case may be. The petitioners, however, shall be paid emoluments/pension as per the re-fixed pay w.e.f. 01.03.2010 onwards.”

4. As a result, the present writ petition is allowed in the same terms and the benefits arising out of change of option will be notional. The respondents are directed to obtain fresh option from the petitioner within a fortnight and process the case within one month thereafter to completion. However, the petitioner shall be paid emoluments/pension as per the re-fixed pay from the date of presentation of this petition, which is 7th December, 2010 and regularly thereafter.

[RAJIV NARAIN RAINA]
JUDGE

25.02.2016
Vimal