

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

Date of decision: 11.3.2016

CWP No. 18644 of 2015

Gurmit Singh & ors.		... Petitioners
	Versus	
State of Punjab & ors.		... Respondents

CWP No.25339 of 2015

Sukhdhir Singh Sekhon & ors.		... Petitioners
	Versus	
The State of Punjab & ors.		... Respondents

CWP No.25378 of 2016

Tej Pal & ors.		... Petitioners
	Versus	
State of Punjab & ors.		... Respondents

CWP No.3624 of 2016

Balwant Singh & ors.		... Petitioners
	Versus	
State of Punjab & ors.		... Respondents

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

Present: Mr. SK Rattan, Advocate, (in CWP No.18644 of 2015)
Mr. RK Arora, Advocate,
(in CWPs No.25339, 25378 of 2015 and 3624 of 2016)
for the petitioners.

Mr. Vaibhav Sharma, DAG, Punjab.

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

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of above cases bearing CWPs
No. 18644, 25339, 25378, 1682 of 2015 and 3624 of 2016 as common
questions of law and fact are involved in them which can conveniently be

decided by a common order.

2. The claim in these petitions is for a second opportunity to exercise option by changing the first option from 1st January, 2006 to 1st November, 2006. The change is necessitated because of loss of pay reduction on account of audit objection in the pay fixation of the petitioners w.e.f. 1st January, 2006, which has resulted grant of lesser pay to the petitioners than their juniors in the same cadre. Due to subsequent change in the pay fixation of the petitioners, 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 petitioners to take legal recourse by way of the instant petition.

3. 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 v. 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.

4. 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."

5. As a result, the writ petitions are 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 petitioners within a fortnight and process the case within one month thereafter to completion. However, the petitioners shall be paid emoluments/pension as per the re-fixed pay from the date of presentation of these petitions and regularly thereafter.

(RAJIV NARAIN RAINA)
JUDGE

11.3.2016
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