

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

CWP No.25195 of 2013 (O&M)

Date of decision: 06.09.2016

Sukhwinder Singh and another

..Petitioners

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. H.B.S. Baidwan, Advocate
for the petitioners.

Mr. T.N. Sarup, Addl. A.G., Punjab
for respondent No.1 -State.

Mr. Atul Kaushik, Advocate
for respondent No.2.

Daya Chaudhary, J. (Oral)

CM No.11448-CWP of 2015

This application is for placing on record supplementary written statement on behalf of respondent No.2 along with Annexures R-2/1 to R-2/5.

Application is allowed and supplementary written statement on behalf of respondent No.2 along with Annexures R-2/1 to R-2/5 is taken on record.

CWP No.25195 of 2013

The prayer in the present writ petition is for issuance of a writ in the nature of mandamus directing the respondents to grant consequential benefits to the petitioner in view of judgment rendered in CWP No.2371 of 2010 dated 31.08.2010 and also judgment passed in CWP No.1432 of 2012

on 23.01.2013.

In response to notice of motion, reply has been filed, which is on record. Subsequently, the supplementary written statement has also been filed on behalf of respondent No.2 by moving an application wherein the following stand has been taken: -

“xxx xxx xxx

4. That the Government of Punjab, vide Notification No.5/44/2012-5FPPC/758 dated 09.07.2012 has decided to implement new Pension Scheme on the employees of the Public Sector Undertakings and State autonomous bodies, who have been recruited on or after 01.01.2004 on regular basis and Department of Finance, Directorate of Punjab Enterprises and Disinvestment, Punjab Government, has been declared as Nodal Officer for implementation of the new Pension Scheme. A copy of the said Notification dated 09.07.2012 is annexed herewith as ANNEXURE R-2/1. In pursuance thereto, a reference has been made by the Directorate of Public Enterprises and Disinvestment on 08.05.2013 to the Regional Provident Fund Commissioner for resolving the implementation of new Pension Scheme in lieu of the Scheme under the Employees Provident Fund and Misc. Provisions Act, 1952 (hereinafter referred to as the '1952 Act').

A copy of the Reference made dated 08.05.2013 is annexed herewith as ANNEXURE R-2/2.

5. That on receipt of the Notification dated 09.07.2012 (Annexure R-2/1), a request was made to the Regional Provident Fund Commissioner, Chandigarh by the Office of Respondent No.2 with a request for issue of the No Objection Certificate for opting new Contributory Pension Scheme. A copy of the Reference dated 25.03.2013 made to the Regional Provident Fund Commissioner, Chandigarh is annexed herewith as ANNEXURE R-2/3. Simultaneously, a reference has also been made to the Department of Finance, Government of Punjab, vide letter dated 05.09.2013 by the Respondent No.2, with a request for issue of NPC Account/Registration No. to the Corporation and also to discontinue the depositing of EPF Contributions with the Regional Provident Fund Commissioner. A copy of said letter dated 05.09.2013 is being annexed herewith as ANNEXURE R-2/4.

6. That to consider the request of the Respondent No.2, the Regional Provident Fund Commissioner has issued a letter No. PN/20068/9315 dated 11.12.2014 seeking information with regard to the

consent and list of the employees, who wants to join the new Pension Scheme and also copy of the new Pension Scheme formulated by the State Government. Thereafter, the consent of the employees has been sought and a final list of the employees for opting to the new Pension Scheme or to continue with the earlier Employees' Provident Fund Scheme, has been prepared after having the options and the same has been sent to the Officer of the Regional Provident Fund Commissioner, Chandigarh, in respect of 367 employees of the Respondent No.2. A copy of the said option list is annexed herewith as ANNEXURE R-2/5.

7. That the final implementation of the new Pension Scheme is pending clearance from the Office of the Regional Provident Fund Commissioner, Chandigarh, as well as No Objection Certificate/Exemption from the implementation of the Scheme framed under the 1952 Act as the employees of the Respondent No.2 are presently covered under the 1952 Act.”

In view of the stand taken in the supplementary written statement, the present writ petition is disposed of with a direction to respondent No.2 to consider the claim of the petitioners and take necessary action within a period of two months from the date of receipt of certified

copy of this order.

However, in case, the petitioners are found to be entitled for the relief sought in the present petition, the same be granted to them within a period of two months thereafter. In case, the petitioners are still aggrieved in any manner, they are at liberty to avail the appropriate remedy.

06.09.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	√ Yes/No
Whether Reportable	√ Yes/No