IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25348 of 2013 (O&M)

Date of Decision: 15.3.2016

Sher Pal ... Petitioner

Versus

State of Punjab and others ... Respondents

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

Present: Mr.J.P.S.Sidhu, Advocate for the petitioner

Mr.Nikhil K.Chopra, 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.

1. It is well settled position in law that an option once exercised can be changed in the changed circumstances which were not existing and could not be forseen at the time of exercising option. The competent authority is required to give an opportunity to the employees to revise their option in the changed circumstances. The approach of Government should be liberal when option involves change of date to recieve benefits of revised pay. This claim arises out of pay revision under the Punjab Civil Services (Revised Pay) Rules, 2009 (for short "the Rules"). The option has to be exercised in terms of the second Proviso to Rule 5 of the Rules. In the first instance, the petitioner had exercised option from 1.1.2006 but the more beneficial date was 1.11.2006 which the petitioner realised later. This is what he claims by way of change. The law on the point is settled by the Division Benches of this Court including in **Nand Lal Sharma vs. State of Punjab,** 1996(2) S.C.T 257 and **Darshan Singh and another vs. State of**

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Punjab and others, 2003(1) S.C.T. 1021 and innumerable judgments following thereafter. Though an adverse order has not been passed or impugned in this petition, but it would serve no useful purpose to direct the competent authority to consider deciding the representation and it would suffice to issue directions to bring relief to the sufferer by a mandamus issued to the respondents to permit the petitioner to exercise his option by changing it from 1.1.2006 to 1.11.2006, so that the monetary benefits of the changed option can percolate down and made available to the petitioner.

2. Consequently, this petition is allowed as prayed for. The petitioner would approach the respondents and exercise his option within 14 days from the date of receipt of a certified copy of this order which will be accepted and the respondents would pass necessary orders within one month thereafter and make available the monetary benefits to the petitioner after calculating them without delay and at the end of the month thereafter.

(RAJIV NARAIN RAINA)
JUDGE

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