

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Misc. No.14303 of 2015 in/and
Civil Writ Petition No.26363 of 2014
Date of decision:22.4.2016

Tajinder Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Pankaj Jain, Advocate for the petitioners.

Mr. Avinit Avasthi, Assistant Advocate General,
Punjab for the respondents.

G.S.SANDHAWALIA, J. (Oral)

In the present petition, the petitioners seek relief of the old pension scheme under the pension Rules and pray that they are not covered under the Contributory Pension Fund Scheme dated 22.3.2004.

The direction sought is that the date of appointment of the petitioners be treated as 25.2.2002 when their names were recommended for regular appointment to respondent no.2 by the Punjab Services Selection Board. The State has chosen not to file reply to the writ petition in spite of a period of one year having expired as respondents were served for 28.5.2015. Thereafter, the petitioners also filed a Civil Misc. Application bearing No.14303 of 2015 praying that the case be disposed of in terms of order passed in **Civil Writ Petition No.1244 of 2011-Rupinder Pal and others Vs. State of Punjab and others** decided on 6.5.2011 (Annexure P/6). Even to the said application, no response has been filed by the respondents.

Counsel for the petitioners submits that in similar circumstances, this Court in **Civil Writ Petition No.27066 of 2015-**

Balrajbir Singh and others Vs. State of Punjab and others decided on 23.12.2015 had directed the respondents to decide the legal notice within a period of three months. Counsel further submits that he would be satisfied if similar direction is issued in the present petition and the writ petition be treated as a representation and respondents be directed to decide the same within a time bound frame.

In the case of **Balrajbir Singh's** case (supra), this Court noticed that the case of the petitioners was that their names were recommended in February, 2002 for the post of Multi Purpose Health Workers on regular basis but they were offered appointment on contractual basis leading to litigation, which came to end on 18.01.2005 in CWP No.13927 of 2003, Satnam Singh and others vs. State of Punjab and others. The State chose to withdraw the SLP and appointment orders were issued in the year 2007. In the interim period in the year 2004, Government of Punjab had introduced a new defined Contributory Pension Scheme called CPF replacing the earlier pension provision which was to be applicable from 01.01.2004 and the petitioners, who were issued appointment letters in December, 2007, were brought under the said scheme. This Court, in CWP No. 1244 of 2011, Rupinder Pal Vs. State of Punjab decided on 06.05.2011 (Annexure P-6) held that when cases were forwarded to various departments for appointment would be the relevant date and the subsequent CPF would not be applicable and the employees were accordingly eligible for the benefit of pension before the operation of the scheme. The said judgment was further upheld in LPA No. 108 of 2012 on 08.11.2012 (Annexure P-7). Thereafter direction was issued to decide the legal notice.

Keeping in view the above, the present writ petition is also disposed of in similar terms. Respondent no.2 is directed to take a

decision by treating their writ petition as representation on the issue raised by the petitioners as to whether they are entitled for the similar benefit as held by this Court in **Civil Writ Petition No.1244 of 2011** decided on 6.5.2011 (Annexure P/6) which was upheld in LPA No.108 of 2012 decided on 8.11.2012 (Annexure P/7) within a period of three months from the receipt of a certified copy of this order. In case any adverse order is to be passed then a reasoned order be passed by the said respondent and be conveyed to the petitioners.

April 22, 2016
Pka

(G.S.SANDHAWALIA)
Judge