

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 3952 of 2014
Date of Decision:- 11.02.2016

Dukhna

....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naveen Daryal, Advocate, for the petitioner.

Mr. P.S. Poonia, Advocate, for the respondents.

RITU BAHRI, J. (Oral)

Petitioner is seeking directions to the respondents to release the family pensionary benefits on account of death of her husband Sh. Ramji Lal, who was expired on 09.02.2002.

The facts of the case are that the husband of the petitioner was appointed Assistant Lineman on 03.03.1966. He was retired from service after attaining the age of superannuation on 31.04.2000. Thereafter, the retiral benefits have not been released to the husband of the petitioner. The husband of the petitioner has been expired on 09.02.2002. The petitioner has approached to the authority concerned for release of family pensionary benefits and other retiral benefits and the same has been withheld by the department without disclosing any reasons.

Upon notice, the respondent-State has filed the written statement, taking the stand that the husband of the petitioner never switched over from EPF to GPF scheme during his life time. After his retirement his pension case was sent to the EPF Commissioner, Rohtak as per letter dated 24.12.2002 (Annexure R-1) and reminder dated 31.10.2014 (Annexure R-2). The petitioner has already been paid a sum of ₹2,94,343/- on account of payment of EPF, vide cheque No.502833 dated 07.05.2003 but no pension has yet been sanctioned from the office of EPF Commissioner, Rohtak. The petitioner was requested to submit the relevant documents, vide letter dated 26.06.2014 (Annexure R-3).

Learned counsel for the petitioner does not dispute the stand taken by the respondent in the written statement that the husband of the petitioner has not switched over from EPF to GPF Scheme during his life time.

Reference can now be made in this context to a judgment from Division Bench of this Court in case **N.P. Sharma Vs. Haryana Power Generation Corporation Ltd. and others**, decided on 14.05.2015, wherein, the appellant had joined the respondent Corporation as a Boiler Operator on 01.04.1979. He retired from service on 30.04.2006. Thereafter, he again applied for switching over from EPF to GPF Scheme but his request was rejected. The Division Bench further discussed that in the year 1986, the respondent-Corporation itself introduced a scheme where-under the employees were permitted to switch over from EPF to Pension Scheme. This Court has also in a catena of decisions held that if a more beneficial scheme was introduced subsequently, the employees are entitled to avail

the benefit of such Scheme though ensuring that whatever benefits have been drawn by them under the old scheme must be refunded with interest. In that case, the Division Bench has referred the cases i.e. **CWP No.11430 of 1999** titled **Karta Ram Vs. State of Haryana**, decided on 13.02.2012; **CWP No. 15434 of 1997** titled **Ravi Dutt Mehta Vs. State of Haryana and others**, decided on 18.08.2004; **CWP No. 225 of 2009** titled **Randhir Singh Vs. State of Haryana and others**, decided on 07.07.2010 and **CWP Nos.11209 of 2009** titled **Jaswant Singh Chaudhary Vs. HVPNL and others**, decided on 15.12.2011, where the employees were permitted to switch over from EPF Scheme to Pension Scheme.

The issue in question is squarely covered by the above-said judgments and the present petition is disposed of with the directions to the respondent(s) to calculate afresh the retiral benefits of the petitioner as per GPF Scheme, after making adjustment of amount already paid to the petitioner as stated in the affidavit dated 15.07.2015 and in the written statement filed on 06.11.2014 as per rules/instructions. The arrears of pension shall be paid to the petitioner within three weeks from the date of adjustment made by the department. Thereafter, the respondent(s) shall inform the petitioner within the next four weeks and pass appropriate orders in this regard.

February 11, 2016
naresh.k

(RITU BAHRI)
JUDGE