

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

**CWP No.4908 of 2013 (O&M)
Date of decision : July 21, 2016**

Paramjit Kaur

..... Petitioner

Versus

Guru Nanak Dev University, Amritsar

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. S.S. Behl, Advocate for the petitioner.

Mr. Amrit Paul, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes
 2. To be referred to the Reporter or not. Yes
 3. Whether the judgment should be reported in the digest ? Yes
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KULDIP SINGH J. (ORAL)

Petitioner seeks issuance of writ in the nature of certiorari to seek quashing of the order dated 19.10.2012 (Annexure P-3), vide which the claim of the petitioner for family pension was rejected by the respondent.

Shri Ranjit Singh was employed as Helper in Guru Nanak Dev University, Amritsar (in short 'the University') in the year 1987. He died in harness in the year 2011, leaving behind the petitioner as the only legal heir. The petitioner approached the respondent-University with the representations and in response to the said representations, she received communication that her husband was not the member of CPF and never contributed anything towards CPF. Therefore, her claim for the family pension was rejected.

It is stated that the contribution towards the G.P.F. was made.

The petitioner relies upon the pension statute.

In the written statement, the respondent-University has taken the stand that the deceased Ranjit Singh was not the Member of the CPF nor he ever contributed towards C.P.F. and he never exercised any option for pension. Therefore, the petitioner is not entitled to the family pension.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Admittedly, deceased Ranjit Singh was the employee of the respondent-University. He was terminated from service on 27.01.1993 and he was reinstated on 21.06.2001 without back wages. He died in service on 20.12.2011.

The Pension Statute (Annexure R-7) of the respondent-University shows that in the year 1990, the employees, who were beneficiaries under the existing scheme, were given the option to join the scheme. The relevant extract of Rule 4 is as under:

“4. Employees of the category mention at 2 above who joined the University before the date of issue of notification will be given an opportunity to exercise option and convey to the Registrar's office if they wish to continue under the C.P.F. Scheme or to come over to Pension Scheme, within stipulated period in the prescribed peroforma. If no option is exercised by them within the stipulated period, such employees will be deemed to have opted for C.P.F. Scheme. The existing Statutes relating to C.P.F. will remain operative for employees who opt to continue to be governed by the C.P.F. Scheme.”

In the said Rule, the option was to be exercised by the

employee. It is not disputed that from time to time, such option was given to the employees. The last chance (Annexure R-9) was given and the last date of exercising the option was up to 30.04.2003. The option was duly circulated to the employees on 01.04.2003 (Annexure R-10). Admittedly, at that time, Ranjit Singh had rejoined the service but he did not exercise any option for pension on the existing conditions.

Learned counsel for the petitioner has argued that initially the claim of the petitioner for family pension was denied. Later on, C.P.F. was offered to the petitioner by the respondent-University, which she declined. The copy of the letter dated 18.09.2013 (Annexure R-4) shows that the respondent-University has sent its own share of C.P.F., amounting to ₹1,12,555/- to the petitioner, which she declined to receive. It further shows that no amount was contributed by deceased employee Ranjit Singh towards C.P.F. nor he was ever member of the C.P.F.

Since, deceased Ranjit Singh was not the Member of the C.P.F., he did not opt to switch from C.P.F. to the pension, even when last option was given, while he was in service. He continued in service for about 8 years after the last date of exercising the option, which expired on 30.04.2013.

Once, Ranjit Singh had not exercised the option, then even on compensate ground the petitioner, who is widow of the deceased cannot be allowed to exercise the option in the given circumstances.

Learned counsel for the petitioner has relied upon the authority of Rajasthan High Court in case of ***“Smt. Kiran Devi v State of Rajasthan”, 2005(1) S.C.T. 360.***

I am of the view that the facts of this case are entirely different. Therefore, on that account, the petitioner is not entitled to exercise the option at this stage.

On the other hand, learned counsel for the respondent-University relies upon the authority of Full Bench of this Court delivered in ***“Rikhi Ram Sharma v State of Punjab”, 1997(1) RSJ, 554***, where it was held that once the option of the pension is not exercised within the cut-off date, the order denying the benefit of the claim is arbitrary.

Learned counsel for the respondent has also relied upon the following authorities of Hon'ble the Supreme Court:

1. *“D.P. Patil v Union of India”, 1997(3) SCT, 2.*
2. *“Union of India and others v M.K. Sarkar”, 2010(2) SCC 59*
3. *“Shri V.K. Ramamurthy v Union of India & Anr.”, JT 1996 (7) S.C. 296*
4. *“Rajasthan Rajya Vidyut Vitran Nigam Ltd. v Dwarka Prasad Koolwal and others”, 2014(4) SCT, 145.*

Since in this case, on facts, the option was not exercised by the employee during his life time, therefore, at this stage, this Court is not inclined to allow the petitioner to exercise the option, so as to allow her the family pension. Accordingly, the present petition is dismissed.

Needless to say that the respondent-University shall again make an offer to pay its share of C.P.F. as offered vide letter dated 18.09.2013 (Annexure R-4) and if the petitioner so feels, she can always accept that C.P.F. of the share of the University, offered apparently on the compensate ground.

July 21, 2016

(KULDIP SINGH)
JUDGE

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