

**CM-4902-LPA-2016 in/and
LPA-1370-2015 (O&M)**

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

**CM-4902-LPA-2016 in/and
LPA-1370-2015 (O&M)
Date of Decision: December 06, 2016**

Punjab State Warehousing Corporation

.....Appellant

Versus

Rajinder Singh

.....Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Vikram Singh, Advocate
for the appellant.

Mr.D.P.Kaushik, Advocate
for the respondent.

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SURYA KANT, J.

CM-4902-LPA-2016

For the reasons mentioned in the application, the same is
allowed. Additional affidavit is taken on record subject to all just exceptions.

CM stands disposed of.

LPA-1370-2015

The question that arose for consideration of the learned Single
Judge was whether failure of the respondent in exercising the option to adopt
'Pension Scheme' within the stipulated period was attributable to him or such
delay was caused by the authorities in the Corporation?

respondent while in service of the Corporation was placed under suspension on 15.12.1993 and he was removed from service vide order dated 16.08.1996. Removal order was later on set aside and he was reinstated in service on 05.07.1999.

[3] The appellant-Corporation resolved to adopt the Pension and Gratuity Scheme notified by the Punjab Government in its Gazette on 29.03.1996. The Corporation issued the Office Order adopting the said scheme on April 24, 1996 (Annexure P2). As per para 2 of the Office Order, the employees were required to exercise the option “within three months from the circulation of the scheme.”

[4] Endorsement of the above-stated Office Order dated April 24, 1996 reads as follows:-

“A copy of the above is forwarded to the following for information and necessary action. They are also requested to get these orders noted from all the employees working under them. They are further requested to get option from all the employees and send the same in consolidated form, on the proformas enclosed. Receipt of this communication be acknowledged:-

1. Chief Manager (F&A) PSWC, Head Office. He is also requested to take necessary steps in connection with the implementation of pension scheme.
2. All the Warehouse Managers in field, PSWC.
3. All the District Managers, PSWC in Field.
4. Port Managers, CF, Jalandhar/Chhehratta.
5. Chief Port Manager, CFS, Ludhiana.
6. All the Branch Officers, PSWC, at Head Office.
7. PA to AMD, Secretary to MD and PA to Chairman for information of the Officers.” [emphasis applied]

It may be seen that at the time when the Corporation decided to

adopt the Punjab Government's Pension and Gratuity Scheme, the respondent was under suspension. Within three-four months of the adoption of the Pension Scheme he was removed from service. He was reinstated only in the year 1999.

[6] On the question of fact as to whether the Pension Scheme was '**Circulated**' amongst the employees or not and whether the Office Order dated April 24, 1996 was got "**noted from all the employees working under**", we directed the appellant-Corporation to file a specific affidavit.

[7] In deference thereto, the Manager Establishment has filed the affidavit dated 30.11.2016, para 3 whereof reads as follows:-

"3. That the pension scheme was published in the Punjab Government Gazetted dated 29.03.1996. Thereafter vide Office order dated 24.04.1996 (Anenxure P-2) the pension scheme was forwarded to all Warehouse Managers, District Managers, etc. in the field. In District Office Ropar (situated at Chandigarh in the same building of Head Office at that time) the employees working thereunder were verbally informed about the pension scheme. Majority of the employees had submitted option for the said pension scheme. In Ropar District Office there were about 12 employees and 10 employees opted for pension."
[emphasis applied]

[8] Thus, the plea now taken is that the Office order dated April 24, 1996 was forwarded to all the Warehouse Managers/District Managers and they "**verbally informed the employees about the Pension Scheme.**" Its a totally vague, evasive and misleading plea. It is explicitly against the Office order dated April 24, 1996.

[9] The respondent was thus fully justified to contend before the learned Single Judge that the Pension Scheme was never '**Circulated**' to him

nor its contents were got noted from him. That being the factual backdrop, non-exercise of option by the respondent after his reinstatement in service is fully justified.

[10] That apart, appellant-Corporation is not likely to suffer any loss in the event of implementation of the order of learned Single Judge for the reason that the respondent is required to refund the Contributory Provident Fund alongwith interest as accrued thereupon, if any.

[11] In view of the aforestated facts, there is no reason to interfere with the judgment under appeal.

[12] Dismissed.

**(SURYA KANT)
JUDGE**

December 06, 2016
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**(SUDIP AHLUWALIA)
JUDGE**

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |