

LPA-790-2016 (O&M)

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

LPA-790-2016 (O&M)

Date of Decision: November 03, 2016

Kurukshetra University, Kurukshetra and another

.....Appellants

Versus

Bali Ram

.....Respondent

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

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.A.S.Virk, Advocate
for the appellants.

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SURYA KANT, J.

The question that falls for consideration is whether the respondent is entitled to seek pension in accordance with the Pension Scheme of appellants-University?

[2] The facts may be noticed briefly.

[3] The respondent was appointed as Beldar on daily wages w.e.f. 05.06.1983. His services were regularised in accordance with the Government Policy vide order dated 01.12.1993 and he joined on 12.12.1993. The appellant-University introduced 'Kurukshetra University Employees Pension Rules/Scheme 1997' (for brevity, 'the Pension Scheme') w.e.f. 01.04.1995. As per Clause 3 of the Pension Scheme, the University divided its employees in two groups, namely, (i) the first set of employees who were appointed on or after 01.04.1995, no discretion was given to them to opt or not for the Pension Scheme, i.e. the same was made applicable qua

all of them unilaterally, (ii) those employees who were appointed before 01.04.1995, option was given to them to continue under the Contributory Provident Fund (CPF) Scheme or to switch over to the Pension Scheme.

[4] The respondent being pre- 01.04.1995 appointee initially opted to continue under the CPF.

[5] In 2004, the University again circulated the Pension Scheme giving option to its employees. The respondent at that stage is claimed to have opted for the Pension Scheme. This fact is disputed by appellant-University and consequently his claim for grant of pension was turned down.

[6] Learned Single judge vide order under appeal has accepted the claim of the respondent.

[7] On a specific query put by us, learned counsel for the appellant-University fairly states that no individual intimation was given to the employees in the year 2004 to enable them to exercise their option for the Pension Scheme. Only a general intimation was given. That being so, we are inclined to accept the version of the respondent, who is a semi-illiterate Class-IV employee, that he had exercised such option and submitted pension papers also.

[8] Assuming that respondent did not exercise the option, yet in the light of interpretation given by us to various clauses of the Pension Scheme in LPA No.1153 of 2016 (**Kurukshetra University, Kurukshetra vs Manjit Singh**) decided on October 21, 2016, we are of the considered view that purpose of giving option to pre- 01.04.1995 appointees was not to alter their conditions of service to their disadvantage or otherwise without their consent.

The intentment of the University is writ large that the Pension Scheme be adopted by all the employees. For that reason only, it has made it compulsory

in respect of all those employees who came to be appointed on or after 01.04.1995 and then circulated second time in the year 2004 so that pre-01.04.1995 appointees can also give a second thought and opt for the Pension Scheme.

[9] Keeping this in view, coupled with the fact that no financial loss would be caused to the appellants-University, for the reason that respondent is in service and nothing has been paid to him so far, we are not inclined to interfere with the order under appeal.

[10] Dismissed.

(SURYA KANT)
JUDGE

November 03, 2016
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(SUDIP AHLUWALIA)
JUDGE

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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. |