

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

105

CWP No.10412 of 2016

Date of Decision : 09.01.2017

Rajinder Kumar and another

..... Petitioners

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ramesh Hooda, Advocate
for the petitioners.

AJAY TEWARI, J. (Oral)

This petition has been filed for directing the respondents to treat the appointment of the petitioners under the Punjab CSR Volume-II (Old Pension Scheme) and they may be directed not to apply Haryana New Pension Scheme – 2008 notified vide notification No.1/1/2004 dated 18.08.2008.

The petitioner's land was acquired by the erstwhile Haryana State Electricity Board and as per the policy the petitioners were entitled for a job. They ultimately filed a civil writ petition bearing CWP No.338 of 1999 which was decided on 31.05.2006 directing the respondents to

consider the claim of the petitioners within three months. It was

specifically noticed as follows:-

“Therefore, respondents are directed to consider the claims of petitioners No.1 and 2 for appointment on the strength of applications 'submitted by their father in the year 1987 within three months of the receipt of certified copy of this judgment.”

The petitioners were appointed as Peon by orders dated 01.02.2008 and 02.06.2008 respectively. At the time of their initial appointment it was specifically mentioned as follows:-

“(b)That you will be covered under the “New Defined Contribution Pension Scheme.”

Thereafter the petitioners filed another civil writ petition bearing CWP No.18286 of 2010 claiming that they were wrongly appointed as Peon/s and as per their qualifications they were entitled to be appointed to the post of Meter Reader. By order dated 12.09.2011 this Court noticed that prior to their appointment the petitioners had qualified their matriculation examination and therefore entitled to be appointed as LDC/Meter Reader as per the policy and consequently directed the respondents to consider the claim of the petitioners for that post. Pursuant to that the petitioners were offered fresh appointment letters by order dated 30.05.2012 as Lower Division Clerk and it was mentioned that their appointment would take effect from the date of their

initial joining as Peon.

By way of present writ petition it is claimed that in fact the initial appointment of the petitioners was inordinately delayed and therefore the date of their initial appointment has to be pushed back. Interestingly, this plea is only restricted to the extent that the petitioners should not be covered under the New Pension Scheme dated 18.08.2008 (Annexure P-10). I am afraid this relief is not legally permissible. The petitioners cannot claim that their date of appointment be pre-dated only for the purpose of giving pension. It cannot be lost sight of that it was open to the petitioners to have claimed appointment from a prior date even in the first writ petition and they did not agitate the date of their appointment viz. 01.02.2008 and 02.06.2008 at any stage prior to the present petition.

In the circumstances, I see no reason to grant relief to the petitioners. Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

January 09, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No