

CWP-19392-2014

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

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**CM-1832-CWP-2017 IN/AND
CWP-19392-2014
Date of Decision : 05.05.2017**

RAJESH KUMAR AND OTHERS

..... Petitioners

Versus

STATE OF HARYANA & ORS

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. N.K.Malhotra, Advocate
for applicants-petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

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This is an application for placing on record some documents
i.e. Annexure P-18 to P-20.

For the reasons mentioned in the application, the same is
allowed and abovesaid documents are taken on record.

Main case

By this petition the petitioners have challenged the action of the
respondents whereby their GPF accounts, were ordered to be closed.

In reply, the stand of the respondents was that at the time when
the GPF accounts were opened, the petitioners were contractual employee
and consequently the GPF accounts were wrongly opened. On 27.1.2017
the following order was passed:

"Challenge in this writ petition is to the order dated 21.8.2014

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cancelling the GP Fund account of the petitioners on the ground that at the time when this account was opened, they were on contractual service.

Counsel for the petitioners states that during this interregnum, the respondents have regularized the services of the petitioners on the same job w.e.f 2003, and prays for a short adjournment to place on record that document.

Adjourned to 5.5.2017."

Today the learned Assistant Advocate General has accepted that subsequently during the pendency of this petition the services of the petitioners have been regularized with effect from 2003. Once that is so it has to be held that the petitioners would be in regular service with effect from a date prior to the notification of the new pension scheme and consequently would be governed by the old pension scheme. In that situation, the issue that the GPF accounts were opened when the petitioners were contractual employee would pale into in significance because in any case by regularizing of the services w.e.f 2003 the respondents would be deemed to have accepted that they would be entitled for superannuation benefits under the old pension scheme and therefore GPF accounts would have to be opened.

In this view of the matter, the impugned orders are set aside. Petition stands allowed. It is directed that petitioners' GPF account would be revived and petitioners undertake that they would deposit the entire contribution of GPF (alongwith the applicable interest thereon) w.e.f 21.8.2014 till today. It is also directed that all the amount/s which were lying in the GPF account of the petitioners up to the date of the impugned objection shall continue to carry the applicable interest in case the same was not refunded to the petitioners.

Since the main case has been decided, the pending Civil Misc.
Application, if any, also stands disposed of.

May 05, 2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No