IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22761 of 2014 (O&M)
Date of decision: 21.4.2017

Pritam Singh Sidhu and others
...Petitioners

Versus

State of Punjab and others
...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Kapil Kakkar, Advocate,
for the petitioners.

Ms. Lavanya Paul, AAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioners herein seek to quash order dated 14.5.2013 (Annexure P/5) and order dated 20.9.2014 (Annexure P/11), by which the claim of the petitioners for change of option for grant of revised pay scale w.e.f. 1.1.1986 has been declined on the ground that the options were not exercised within a period of two months from the date of Circular dated 25.10.2012.

2. In brief, the facts are that the petitioners joined the Punjab & Taxation Department and on attaining the age of superannuation retired from service. The State of Punjab revised the pay scale of its employees w.e.f. 1.1.1986 under the Punjab Civil Services (Revised Pay) Rules, 1988 (hereinafter called '**the 1988 Rules')**. Under Rules 5 and 6 (1) and 6-A of the 1988 Rules, an employee was to exercise option for the existing scales

of pay or revised scale of pay so that the benefit of periodical increments may be opted for by the employees, depending on the date of retirement. Since employees were not permitted to change their options on one pretext or the other, a number of writ petitions came to be filed in this Court, which were allowed and the employees were allowed to change their options, keeping in view the changed circumstances. Accordingly, the Government of Punjab, Department of Finance issued instructions dated 25.10.2012 to all the departments giving approval for change of option and further provided that the employees who were still desirous of change of option could give their options within two months from the issuance of that letter.

3. Pursuant to the letter dated 25.10.2012, respondents No.3 issued letter dated 20.12.2012 to all the subordinate offices calling for the revised option and such options were to be given within two months. The petitioners opted but instead of accepting the change of option, as exercised by the petitioners, respondent No.2 declined the same on the ground that said options have been received after expiry of two months. Aggrieved the instant writ petition has been filed.

4. Mr. Kapil Kakkar, learned counsel appearing on behalf of the petitioners, argues that the options had been exercised by the petitioners well within the stipulated period from the date they contents of Circular dated 25.10.2012 were made aware to them and, therefore, the same ought to have been accepted.

5. Per contra, learned counsel appearing on behalf of the respondent—State, submits that as per Circular dated 25.10.2012, all the employees of Departments, who had not exercised their options, could do so

within a period of two months from the date of issuance of the said Circular and in the instant case, the petitioners had exercised their option only on 2.3.2013 well after the cut off date and it is on this account that the benefits of the revised pay scale has been denied to the petitioners.

6. I have heard learned counsel for the parties and have also perused the record of the case

7. Admittedly, the Finance Department by Circular dated 25.10.2012 had taken a decision to give another opportunity to the all those employees who were not able to exercise their options for revised pay scale earlier with effect from 1.1.1986 within a period of two months. A reading of Annexure P/10 would show that the Excise and Taxation Commissioner, Punjab, has admitted that the government Instructions dated 25.10.2012 were received in the office of Excise and Taxation Commissioner, Punjab, on 26.11.2012 and on that date due to non-availability of the photostat papers, the communication could only be sent to the field offices by post on 20.12.2012. Furthermore, Annexure P/3, which is the communication dated 20.12.2012, addressed to various Departments of the Excise and Taxation, Punjab, (whereby intimation was given regarding change of option) was received in the office of the Assistant Excise Taxation Officer only on 3.1.2013. The petitioners who were working in the said office were made aware the contents of the communication only thereafter. Therefore, by computing two months from the date they were made aware of the communication dated 20.12.2012, the petitioners exercised their options and submitted for their revised pay scale in the prescribed format by 2.3.2013. The contention raised that the options had not been exercised within a

period of two months in terms of Instructions dated 20.12.2012 is a ground which is not justified. If the petitioners were made aware of the instructions as late as on 3.1.2013, as is evident from Annexures P/10 and P/3, no delay could be attributed to them. As per admission made by the respondents themselves in Annexure P/10, the information was only sent out to the field office by post on 20.12.2012 and, therefore, it is held that there was no delay on the part of the petitioners in exercising their options.

8. In view of the afore-stated facts, this Court has no hesitation in allowing the writ petition. Consequently, the impugned orders are set aside and the respondents herein are directed to accept the change of options as exercised by the petitioners. The petitioners herein would be entitled to all consequential benefits that would flow from the date the options were submitted by them in the office of the respondents.

9. The writ petition stands allowed on the above terms.

21.4.2017 **(JAISHREE THAKUR)**
prem **JUDGE**

Whether speaking/reasoned Yes
Whether reportable No