

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 4388 of 2015
Date of decision: 17.01.2017

Surinder Singh Pathania

..Petitioner

Vs.

U.T. Khadi and Village Industries Board,
Chandigarh and Another

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. R.K. Sharma, Advocate for the petitioner.

Ms. Sonia Sharma, Advocate for the respondents.

KULDIP SINGH, J.(ORAL)

The petitioner was working as Clerk/Steno-typist in the office of respondent No.1 i.e. U.T., Khadi and Village Industries Board, Chandigarh since 04.05.1978. He retired from service as Technical Supervisor (C&B) on 29.04.2011 on attaining the age of superannuation. The claim of the petitioner is that he is governed by same set of Rules as applicable to the employees of Chandigarh Administration, therefore, he may be granted pension and pensionary benefits.

In the reply, respondents have taken the plea that petitioner retired from service on 30.04.2011 and he filed the present petition in the year 2015 and the same is barred by delay and laches. It was further stated that U.T. Khadi and Village Industries Board (for short 'board') is an autonomous body and since its inception the pension scheme is not applicable to this board as the CPF scheme is applicable. The Chandigarh Administration used to issue grant-in-aid to the board for meeting its

expenses like salary and other contingent expenses. It is stated that the said board is on diminishing cadre and now only three or four employees are left in service in the said board. It is stated that in the 10th meeting of the board held on 24.07.1996, the case was placed before the board for implementing the pension scheme in the board. It was desired that a detailed proposal in this regard may be worked out, indicating the total financial implications involved. In the 11th meeting of the board held on 16.07.1997, the case was again put up before the board for approval. It was approved by the board and it was desired that a detailed proposal in this regard may be sent to the Chandigarh Administration immediately to issue necessary notification. The case was sent to the Home Secretary-cum-Secretary Industries, Chandigarh Administration vide letter dated 18.12.1997 to implement the pension scheme as per pension rules in lieu of Contributory Provident Fund Scheme and request was made to issue necessary notification in this regard. In response to said letter the Home Secretary, Chandigarh Administration vide Memo No. 5973-HII(3)-98/904 dated 16.01.1998 intimated that proposal was under reference has not been supported by the relevant documents of Pension Scheme nor any copy of the notification issued by any of the States has been enclosed. Moreover, the board is not a Government department and it was advised to take necessary action on its own level. If considered necessary, the proposal may be routed through the Industry Department duly supported by the relevant documents and financial implications along with assets and liabilities of the Board. In the 13th meeting of the board held on 23.02.1999, the board unanimously decided in principle to follow the instructions, rules, regulations, benefits and service conditions as adopted by the Chandigarh Administration on the basis of Punjab pattern or

Central pattern from time to time for its employees and functioning of the board. In the 16th meeting of the board held on 07.07.2004, it was decided unanimously that since the employees of U.T. Chandigarh Khadi and Village Industries Board are governed by CPF rules, there is no need to implement the pension scheme. Hence, the CPF Scheme continued. It was further stated that the matter regarding implementation of pension scheme was placed in the 19th meeting of the board held on 29.07.2013 in which it was held that the employee appointed before 1st January 2004 will get pension. It was unanimously decided to refer the matter regarding implementation of pension scheme in respect of the employees of the board before Chandigarh Administration. Accordingly, Home Secretary, Chandigarh Administration was requested vide letter dated 26.08.2013 (Annexure R-2) that the matter may be considered as per rules and decision be conveyed to this office for taking further action. Accordingly, Home Secretary, Chandigarh Administration vide letter dated 04.04.2014 (Annexure R-3) has intimated that matter regarding pension scheme for employees of the Chandigarh Housing Board is under consideration. As soon as, any decision is taken, the case for the grant of pension to the employees of the U.T. Khadi and Village Industries Board, Chandigarh will be examined accordingly.

It is stated that vide letter dated 15.01.2015 the board has intimated the Finance Secretary, Chandigarh Administration regarding the latest position in respect of the pension scheme to the employees of Chandigarh Housing Board.

I have heard learned counsel for the parties and have also gone through the case file. The petitioner has concealed the material facts. The

facts narrated by the respondent in the reply make it evident that petitioner from the time of entering in service was governed by CPF scheme. Board is an autonomous body. At various times, the proposal was sent to U.T. Administration for issuing the notification to implement the pension scheme. However, till the retirement of petitioner in 2011 and even in 2015 the pension scheme has not been implemented for the employees of the board. The mere fact that the Board in its one meeting held that the service conditions of the U.T. Administration will apply to their employees, does not mean that they had accepted the pension scheme. For implementing the pension scheme certain rules are required to be framed. But these rules were never framed and never got approved from U.T. Chandigarh Administration, which was mandatory. It being so, without any rules, no pension can ordered to be paid to the petitioner at par with U.T. Employees of Chandigarh Administration.

Petition stands dismissed.

(KULDIP SINGH)
JUDGE

January 17, 2017
Poonam (II)

Whether speaking/ reasoned: Yes

Whether Reportable: No