

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CM No.4940-C of 2014 and
CM No.2080-C of 2015 in/and
RSA No.2030 of 2014 (O&M)
Date of Decision : 03.11.2017

Pepsu Road Transport Corporation, Nabha Road,
Patiala and another

..... Appellants

Versus

Hardev Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Anupam Singla, Advocate
for the appellants.

Mr. S.K.Sharma, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

CM No.4940-C of 2014

For the reasons recorded, the application is allowed. Delay of
148 days in filing the appeal is condoned.

CM No.2080-C of 2015

The application for impleading LR's of respondent is allowed.
Amended memo of parties is taken on record.

RSA No.2030 of 2014

This appeal has been filed against the concurrent judgments of
the Courts below decreeing the suit of the respondent to the effect that he is
entitled to get pension.

Learned counsel for the appellants has relied upon a judgment of the Supreme Court passed in ***Pepsu Road Transport Corporation, Patiala Vs. Mangal Singh and others, 2011 AIR (SC) 1974*** and particularly para 41 thereof is quoted herein below :-

“41) The Regulation 4 (iii) of the Regulations is a deeming provision to the effect: firstly, if an employee fails to exercise his option within a period of 6 months from the date of issue of these Regulations and; secondly, even on exercise of option, if an employee fails to refund the amount of advance taken from employers contribution of the C.P.F. within 6 months from the date of issue of these Regulations, then it shall be deemed that employee has opted to continue for the existing C.P.F. benefit. Therefore, the failure on the part of the respondents to opt for the Pension Scheme and refund the advance taken from the employer's contribution of C.P.F. will disentitle them from claiming any benefit under the Pension Scheme. Therefore, we cannot sustain the Judgment and order passed by the High Court.”

To my mind this judgment would not be applicable to the facts of the present case because in paragraph 7(i) of the plaint, the respondent had unequivocally averred that he had obtained an advance from his own share of the provident fund and this paragraph was admitted by the appellants and it is on this basis that the lower appellate Court dismissed their appeal.

I see no reason to take a different view.

Appeal is dismissed.

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

03.11.2017
Pooja sharma-I

(AJAY TEWARI)
JUDGE

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