

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

**CWP No. 13433 of 2016 (O&M)
Date of Decision: 09.01.2018**

Anita Sharma

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. S.K. Rattan, Advocate
for the petitioner.

Mrs. Lavanya Paul, Assistant Advocate General, Punjab
for the respondent(s)/State.

JASWANT SINGH, J.

1. Petitioner who is working as Math Mistress in Okara Arya Putri Pathshala Senior Secondary School Gardhiwala, District Hoshiarpur, by way of filing the present writ petition under Article 226 of the Constitution seeks a writ in the nature of certiorari quashing the order dated 24.02.2016 passed by Director of Public Instructions (SE) and order dated 03.05.2016 passed by Education Tribunal, Punjab.

2. Thumb nail sketch of the facts emerging from pleadings and arguments of both the counsel are that on 01.09.1984, petitioner was appointed as Math Mistress in a Privately Managed recognized aided school. Government of Punjab vide Notification dated 10.02.1992 framed a scheme called as 'Punjab Privately Managed Recognized Aided Schools Retirement Benefit Scheme, 1992'. The said scheme was made applicable w.e.f. 05.02.1987. The petitioner filled up option form dated 28.05.1992 for the grant of pension wherein tick marked option at Sr.No. 02 i.e. "I opt to

continue under the existing contributory provident fund benefits”.

3. The aforesaid scheme of 1992 was repealed vide notification dated 12.09.2003 and revived vide Notification dated 01.08.2012. As per Regulation 3 of 2012 scheme, it is applicable to employees of Punjab Privately Managed Recognized Aided Schools who had opted for Retirement Benefit Scheme, 1992. Regulation 3 reads as under:-

*3. **Application:** This Scheme shall apply to all the employees, of the Punjab Privately Managed Recognised Aided Schools who,-*

(i) were in service in such schools;

(ii) had opted for the Punjab Privately Managed Recognized Aided Schools Retirement Benefit Scheme, 1992, and

(iii) have attained or will attain the age of superannuation on or after the 1st day of June, 2003.”

As per aforesaid regulation, an employee who had opted for Retirement Benefit Scheme of 1992 is eligible to scheme of 2012 and petitioner wishes to avail the pension scheme of 2012 even though she had opted contributory provident fund scheme and not pension scheme 1992.

4. The petitioner made representations and thereafter filed CWP No. 23068 of 2015 and this court vide order dated 30.10.2015 directed the authorities to decide representations of the petitioner who vide order dated 24.02.2016 rejected claim of the petitioner. The petitioner assailing aforesaid order dated 24.02.2016 initially filed CWP before this court and thereafter vide Petition No. 16 of 2016 unsuccessfully assailed before Education Tribunal, Punjab. By present petition order dated 24.02.2016 (P-

1) passed by Director of Public Instructions (SE) and order dated

03.05.2016 (P-13) passed by Education Tribunal, Punjab is assailed before this court.

5. After having scrutinized record of the case and hearing arguments of both the counsels, this court finds that present petition bereft of merits and deserves to be dismissed. The main contention of petitioner is that she by mistake opted for CPF Scheme of 1992 and pension is right, not bounty so she should be allowed to opt for pension scheme of 2012. The petitioner is a well qualified teacher and she had consciously opted for CPF benefit and for the said purpose, she had filed an undertaking dated 28.05.1992. Firstly, she cannot claim at this stage that she by mistake opted for CPF benefit and secondly scheme of 2012 specifically debars her so there is no ground to interfere and set aside impugned orders. It is apt to mention here that petitioner has not challenged any regulation of Scheme of 2012 so this court cannot go beyond the scheme which is basis of claim of the petitioner.

In view of aforesaid findings, this court does not find any reason to interfere and accordingly petition is **dismissed**.

Since the main petition has been decided/dismissed, therefore, no orders are required to be passed in the miscellaneous application(s), pending if any.

January 09, 2018

'dk kamra'

**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>