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

**CWP No.26449 OF 2016
DECIDED ON: FEBRUARY 26, 2018**

DALBARA SINGH **.....PETITIONER**

VERSUS

STATE OF PUNJAB AND OTHERS **.....RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Deepak Sonak, Advocate,
for the petitioner.

Ms. Sunnit Kaur, AAG, Punjab.

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JASPAL SINGH, J (Oral)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ especially in the nature of mandamus directing the respondents to release the pensionary benefits by counting his work charge service as well as to grant the pensionary benefits and GPF as applicable to the employees appointed prior to 01.01.2004.

2. In response to the notice of motion, reply by way of counter affidavit of Mr. Jasinder Singh Bhandari, Executive Engineer, Irrigation Department, Devigarh Division (I.B.) Patiala on behalf of respondents No.1, 2 and 5 has been filed.

3. Paragraphs No.4 and 5 of the preliminary submissions of the written statement/reply filed by the aforesaid respondents are relevant for the

disposal of the instant petition, which are reproduced as under:-

> "*4. That the petitioner was allotted GPF No.PB Irrigation Class-IV/24266 and the entire payment on account of GPF have already been released to the petitioner.*
>
> *5. That the pension case of the petitioner was sent to the Accountant General, Punjab, but the office of the Accountant General, Punjab (A&E) raised an objection that the petitioner was come into service after 01.01.2004, therefore he cannot be granted pension. In reply to the objection the answering respondents made clear that the work charged employee who were appointed prior to 01.01.2004, they comes under the old pension scheme. Thus, vide letter dt. 09.06.2016, the office of the Accountant General, Punjab (A&E) directed the department of the answering respondent and petitioner that the petitioner be directed to get deposited the EPF Contribution of Govt. Share from the petitioner, but the petitioner has failed to deposit the EPF contribution of the government share which was earlier released to him alongwith the interest in the Government account. The petitioner was accordingly informed by the respondents vide letter dt. 03.03.2017 and 27.07.2016 to deposit back the EPF contribution of the Government share alongwith the interest in the Government account so that corresponding entry be made in his service book under proper attestation and his pension case be forwarded to the office of respondents No.3 and 4 for necessary compliance.*
>
> *It is brought to the notice of this Hon'ble Court that the petitioner had already received the payment on account of EPF under the new contributory Pension Scheme and thereafter he has has also received the amount on*

> *account of GPF under the old pension Scheme. Thus. the petitioner was entitled only one pension scheme either New Contributory Pension Scheme or the old Pension Scheme. Therefore, the petitioner is directed to deposit the Govt Share which has been received by him on account of EPF Pensionary scheme. Till the petitioner is not depositing the Govt. share till then his case cannot be considered for pension. Therefore, the delay whatsoever would be taken for granting the pension to the petitioner will be totally on the part of the petitioner.*
>
> *In view of the submissions made above the present petition is liable to be dismissed in the interest of justice."*

4. A glance at the aforesaid paragraphs makes it crystal clear that the respondents have agreed to release the pensionary benefits to the petitioner by counting his work charge service for the pensionary benefits as well as to grant pension on deposit of Employee Provident Fund contribution of government share.

5. Learned counsel for the petitioner undertakes to deposit the amount of EPF contribution of government share with the respondents within a period of four weeks.

6. Accordingly, instant petition is disposed of with the direction to the petitioner to deposit EPF amount of government share within a period of four weeks from the date of receipt of certified copy of this order and on receipt thereof, the respondents shall consider and initiate the necessary proceedings for the grant of pensionary benefits. It would be appreciable, if , the needful is done within a period of three months from the date of deposit of EPF (government

share). In case of non-compliance of order, the petitioner shall be entitled to interest @ 9% from the date of filing of instant petition till the date of actual payment. And further, the petitioner shall be at liberty to have recourse to the other remedies available under law as well as to approach this Court.

FEBRUARY 26, 2018 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned ***Yes***
Whether reportable ***Yes/No***