

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.21546 of 2018.

Date of Decision: August 28, 2018

Nirmal Singh Fireman and others

.....Petitioners

versus

Central Administrative Tribunal, Chandigarh Bench and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.Rajesh Gupta, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

The petitioners are aggrieved by the order dated 23.03.2018 passed by Central Administrative Tribunal, Chandigarh Bench whereby the claim to bring them within the purview of old Pension Scheme, i.e., CCS (Pension) Rules, 1972, has been declined as they were appointed after 01.01.2004 and thus come under the purview of new Pension Scheme.

The facts are not in dispute. The petitioners applied for various posts in response to the advertisement issued in the year 2003. The examination was held on different dates from 22.12.2003 to 27.12.2003 and after finalization of selection process, they were appointed on different dates in March 2004 and so on. Meanwhile, the Pension Scheme of 1972 stood replaced by a new Pension Scheme w.e.f. 01.01.2004. The new Pension Scheme is prospective and is applicable qua all those employees who have been appointed on or after 01.01.2004. The petitioners approached the Tribunal in the year 2018 claiming protection of old Pension Scheme of 1972 on the plea that the vacancies against which they have been appointed,

were of the years 2000-2002, hence their appointment would relate back to the years of occurrence of vacancies. The said claim has been turned down by the Tribunal and rightly so, observing as follows:-

“...5. We note that the examination was held in December, 2003 and the result was declared thereafter and the applicants joined the posts to which they were appointed in March/April, 2004, i.e., after January 2004, date of notification of New pension Scheme. We also note that the recruitment was conducted within reasonable time and no delay has occurred in the recruitment process, moreover, there is a need to accord sanctity to the rules and schemes of the Government and their date of effect/operation to Government servants. It should not be left to those joining Government service as to how the sanctity of the last date of a scheme like the old pension scheme can be extended or stretched to accommodate the applicants.....”

We have heard learned counsel for the petitioners who reiterates the submission and urges that since the vacancies were of the years 2000-2002, the delay in recruitment process should not cause any disadvantage to them.

We do not find any merit in the submission. The appointment can not relate back to the date of occurrence of vacancies unless so expressly provided in the Rules. Even selection does not confer an indefeasible right to appointment till a person is found suitable after examination of antecedents and character verification etc. The right to hold

the post accrues from the date of issuance of appointment letter. Admittedly, the petitioners were issued the appointment letters in March, 2004, i.e., after 01.01.2004. In this view of the matter, they cannot claim the benefit of old Pension Scheme of 1972.

Dismissed.

[SURYA KANT]
JUDGE

August 28, 2018
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(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No