

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

**Civil Writ Petition No. 9002 of 2016 (O&M)
Date of Decision: 01.11.2018**

Dr. Varinder Randhawa

..... Petitioner

Versus

Punjab Agricultural University, through the
Vice-Chancellor, Ludhiana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Ms. Mannat Anand, Advocate
for the petitioner.

Mr. M.L. Saggar, Senior Advocate, assisted by
Ms. Veenu Garg, Advocate
for the respondents-PAU.

JASWANT SINGH, J.

1. Instant petition under Article 226 & 227 of the Constitution of India has been filed seeking quashing of Communication dated 24.07.2015 (**Annexure P-4**), Board decision dated 09.07.2015 (**Annexure P-5**), Communication dated 20.11.2015 (**Annexure P-7**) and Board Decision dated 09.11.2015 (**Annexure P-8**), whereby option of switching from Contributory Provident Fund (CPF) to Pension Scheme has been rejected.

2. The petitioner joined Punjab Agricultural University in the month of November' 1982 and worked for thirty-three (33) years in the field of Teaching, Research and Extension Programmes. The petitioner directed/co-directed eight (08) prestigious research projects with external funding of more than 20 million rupees. The respondent-University vide

notification dated 26.03.1998 (**Annexure P-1**) rolled out a scheme for its employees, wherein an option was given to switch over from Contributory Provident Fund (CPF) to Pension Scheme if they had ten (10) years residual service. The said option was required to be opted atleast three (03) years before the date of retirement.

3. The Board of Management of University in its meeting dated 28.10.2014 decided to make amendment in Clause 1.2 (iv) of the Statutes regarding Pension and Provident Fund (Para A). The amended clause as notified on 04.12.2014 (**Annexure P-2**) reads as under:

“ The employees of the University (teachers and non teaching employees) with 10 years service, who have three years or more remaining service, may exercise option afresh for switching over from CPF to Pension within three months from the date of issue of notification in this regard provided all University contribution with interest is deposited in the Pension Corpus Fund. The option once exercised shall be final. This will be the last chance for exercising option from CPF to pension”.

4. The petitioner as per aforesaid clause exercised her option and submitted relevant form with Assistant Registrar of the University but respondent declined request of the petitioner on the ground that she had not filed option within time. The petitioner applied within three (03) months from the date of amended clause, however, left over service of the petitioner was less than three (03) years, therefore, was held not entitled to opt.

5. Ms. Mannat Anand, counsel for the petitioner, contended that Chamkaur Singh, Plant Observer was allowed to switch over from CPF to pension scheme even though he had less than three (03) years of residual

service. The university has accepted application of eleven (11) other

persons, who had residual service of less than three (03) years. Declining of petitioner's application amounts to discriminatory treatment, thus in violation of Article 14 and 31 (1) of the Constitution of India. He further contended that scheme in question is piece of beneficial legislation and it should be implemented in its true spirit. The purpose of scheme should be achieved and relaxation in the rule should be extended to all similarly placed candidates.

6. Per contra, Mr. M.L. Saggar, Senior Advocate, contended that in amended para 1.2 (iv), it has been clearly provided that option of switching over from CPF to pension scheme would be available to only those employees who have three (03) years or more residual service which is not case of the petitioner. The earlier notification was issued on 26.03.1998 and petitioner being Professor was well aware of the said notification, still she did not file her option, therefore, she cannot be given benefit of her mistake. The case of Chamkaur Singh and other employees has nothing to do with the case of petitioner.

7. Counsel for the respondent, at the asking of this Court, submitted that other employees named by petitioner had gone to other departments on deputation so they could not file option in time whereas petitioner being professor was supposed to file option well within time.

8. The conceded position emerging from the record of the case and arguments of both the counsels is that respondent-university vide notification dated 04.12.2014 **(P-2)** permitted its employees to opt for pension scheme provided left over service of employee should be not less than three (03) years. The option was required to be filed within three (03)

months, which petitioner did but her residual service was less than three (03) years on the said date. The University declined option of the petitioner, whereas option of Chamkaur Singh and eleven (11) other similarly situated persons was acceded even though their residual service was less than three (03) years.

9. The respondent in its reply as well as counsel during the course of argument failed to furnish any cogent reason except lame excuse qua other similarly situated person who had been permitted to opt for pension scheme even though their residual service was less than three (03) years. This is a case of clear violation of Article 14 and 21 of Constitution of India. There seems no reason to make discrimination with petitioner when similarly situated other employees had been permitted to opt for permission. By accepting option of other employees, the respondent has indirectly accepted that rule can be relaxed and pension scheme being piece of beneficial legislation cannot be denied merely on the ground that left over service is less than three (03) years. The petitioner has worked for a long period even though minimum requirement was of ten (10) years, therefore, the University has wrongly declined option of the petitioner and decision of University needs to be set aside.

10. In view of above observations, the present petition deserves to be allowed and accordingly “**Allowed**”, however, it is made clear that petitioner shall deposit entire amount alongwith interest as may be required for opting pension scheme. The petitioner shall deposit required amount within three (03) months from the date of receipt of certified copy of this order.

Since the main case has been decided, no orders are required to be passed in the pending miscellaneous application(s), if any, and the same stand(s) disposed of.

November 01, 2018

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**(JASWANT SINGH)
JUDGE**

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