

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

**CMs No.1536-37-LPA of 2015 in/and
Review Application No.42 of 2015 in
LPA No.1725 of 2013**

Punjab State Warehousing Corporation, Chandigarh
Vs.
Gurdeep Singh Cheema and another

Present: Mr. D.P. Kaushik, Advocate
for applicant-respondent No.1.

Mr. Vikas Singh, Advocate
for the non-applicant/appellant.

CM No.1536-LPA of 2015

Delay of 9 days in filing the Review Application is condoned.

CM Stands disposed of.

CM No.1537-LPA of 2015

Delay of 15 days in refiling the Review Application is
condoned.

CM Stands disposed of.

RA No.42 of 2015

This Review Application has been filed by
applicant-respondent No.1 in the Letter Patents Appeal No.1725 of 2013
praying for review/recall of the order dated 23.12.2014, whereby the appeal
preferred by the non-applicant/appellant-Punjab State Warehousing
Corporation against the judgment dated 04.07.2013 of the
learned Single Judge, whereby CWP No.24221 of 2011 preferred by
applicant-respondent No.1-Gurdeep Singh Cheema for grant of benefit of
pension scheme introduced in the Corporation on 20.03.1996 with effect
from 01.01.1986, was allowed.

2. It is the contention of learned counsel for

applicant-respondent No.1 that the non-applicant/appellant has obtained the order dated 23.12.2014 on the basis of fraud and, therefore, there is no impediment for this Court to review/recall the order. In support of this contention, he places reliance upon the judgment of the Supreme Court in *S.P. Changalvaraya Naidu (dead) by L.Rs. Versus Jagannath (dead) by L.Rs. 1994(1) SCC 1*. His submission is that as per the office order dated 26.04.1996, all the employees working in the Corporation were required to be informed of the said order asking for option and/noted from all. The option of the employees for pension had to be collected and sent in a consolidated form on the performa enclosed. He contends that the said order has not been carried out and, therefore, the applicant is entitled to the benefit of pension scheme. Reference has been made to the order dated 06.12.2016 passed by the another Division Bench of this Court in *LPA No.1370 of 2015* titled as *Punjab State Warehousing Corporation Versus Rajinder Singh*, where the Manager Establishment, in his affidavit dated 30.11.2016 has stated that the employees working in District Office, Ropar, of the Corporation were verbally informed about the pension scheme and the majority of the employees submitted option for the said pension scheme. He contends that the Bench had thereafter proceeded to hold that the scheme has not been got noted from the employees as per the office order referred to above and, therefore, no fault can be attributed to the employee as he could not exercise the option after reinstatement. Counsel has with force sought review/recall of the order dated 23.12.2014 on the basis of the judgment passed in *Punjab State Warehousing Corporation Versus Rajinder Singh's case (supra)* and prayed that the order

dated 04.07.2013 be upheld by dismissing the appeal of the non-applicant/appellant.

3. We have considered the submissions made by learned counsel for applicant-respondent No.1 and have also gone through the judgment dated 06.12.2016 passed by the Division Bench in Rajinder Singh's case (*supra*).

4. The contention as has been raised by learned counsel for the applicant that a fraud has been played upon the Court and thus, the order dated 23.12.2014 passed by this Court needs to be recalled, cannot be accepted for the reason that in the judgment dated 06.12.2016 passed by the coordinate Bench in Rajinder Singh's case, the said Court had relied upon an affidavit filed by the Manager Establishment, in which he had specifically stated that the employees in Roper District Office were verbally informed about the pension scheme, whereas applicant-respondent No.1 was working as a Technical Assistant at Guru Har Sahai, Ferozepur. The affidavit which pertains to the employees of District Roper cannot be made the basis for coming to a conclusion that the employees of District Ferozepur were also not got noted the scheme or that their options were not taken. It, thus, cannot be said that the non-applicant/appellant has committed a fraud upon the Court.

5. That apart, the judgment relied upon i.e. *Punjab State Warehousing Corporation Versus Rajinder Singh's case (supra)* was based on the peculiar facts and circumstances as prevalent therein and, therefore, cannot be made the basis for recall of the order passed by this Court, as prayed for.

coordinate Court cannot be taken as a ground for filing an application for review/recall of an earlier judgment passed by the Court, especially when this judgment has not been brought to the notice of the Court which passed the subsequent judgment.

7. Learned counsel for applicant-respondent No.1 had made an effort to reopen and reargue the case on merits, which cannot be permitted in the light of the limited jurisdiction to be exercised by this Court for review of a judgment/order.

8. In view of the above, finding no merit in the present Review Application, the same stands dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

November 30th, 2018

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