IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4085 of 2009
DATE OF DECISION:13.05.2019

Sohan Lal

... Petitioner

Versus

Pepsu Road Transport Corporation, Patiala and others

... Respondents

CWP No.8052 of 1999

Sukhdev Ram and others

... Petitioners

Versus

Pepsu Road Transport Corporation, Patiala

... Respondent

CWP No.7844 of 2004

Manohar Lal

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.5552 of 2004

Kapoor Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.18688 of 2007

Gian Chand

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.14577 of 2004

Sher Chand

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.13017 of 1999

Harchand Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CWP No.349 of 2005

Raghbir Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.482 of 2006

Sukhbir Kaur ... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.14562 of 2004

Jagjit Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.14738 of 2004

Kartar Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.14714 of 2004

Gurnam Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.8549 of 2007

Tara Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.13441 of 2005

Mohinder Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.24129 of 2014

Nasib Chand and others

... Petitioner

Versus

Pepsu Road Transport Corporation, Patiala

... Respondent

CWP No.12643 of 2013

Sarabjit Singh

... Petitioner

Versus

Pepsu Road Transport Corporation, Patiala and others

... Respondents

CWP No.6323 of 2015

Rajinder Kumar Chauhan

... Petitioner

Versus

Pepsu Road Transport Corporation, Patiala

... Respondents

CWP No.20099 of 2017

Davinder Singh and others

... Petitioners

Versus

Pepsu Road Transport Corporation, Patiala

... Respondent

CWP No.22849 of 2017

Sikandar Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.24623 of 2017

Partap Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.20375 of 2017

Gurmit Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CWP No.29846 of 2017

Hardev Kaur

... Petitioner

Versus

Pepsu Road Transport Corporation, Patiala and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate;
Mr. Vikas Singh, Advocate;
Mr. Devinder Kumar Kaushal, Advocate and
Mr. Gurjinder Singh Chahal, Advocate
for the petitioners.

Mr Anupam Singla, Advocate for the respondents.

Mr. Anil Sharma, Advocate
for the respondents
in CWP Nos.8549 of 2007 & 12643 of 2013.

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HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, the cases, whose description has been given in the head note of this order, are being decided as they involve the same questions of law and similar facts.

The claim of the petitioners in the writ petitions is for the grant of pension by treating them as the Member of the PEPSU Road Transport Corporation Employees Pension/Gratuity and General Provident Fund Regulations, 1992 (hereinafter referred to as 'the 1992 Regulations').

For the purpose of the present order, the facts as stated in CWP No.4085 of 2009 are being taken.

The petitioner in this writ petition joined the Pepsu Road Transport Corporation (hereinafter referred to as 'the Corporation') on 03.09.1975. He kept on working with the respondent-Corporation till 30.09.2006 when he took voluntary retirement. After 2006, it is the case of the petitioner that the benefit for which he was entitled for under the 1992 Regulations, though the petitioner had duly opted to be treated as a Member of the 1992 Regulations for the grant of the pensionary benefits but the petitioner was only released gratuity, leave encashment and GPF, not the pension. As the petitioner was not being granted the benefit of pension, the petitioner approached the respondents seeking information as to why, the petitioner has been denied the benefit of pension. Thereafter, vide letter dated 03.10.2018, information was supplied to the petitioner under RTI that the petitioner was not eligible under the 1992 Regulations because a loan was pending towards him, which amount the petitioner has failed to deposit as required under the 1992 Regulations so as to be eligible to become the Member of the said Regulations and to be entitled for the pensionary benefits under the 1992 Regulations. This order dated 03.10.2008 (Annexure P-10) is under challenge in the present writ petition.

In reply, the respondent-Corporation has again stated that the 1992 Regulations were introduced w.e.f. 15.06.1992 and as per the requirement of the Regulations, the employees were required to opt for the 1992 Regulations within a period of six months and further they have to deposit the advance taken by them from the Contributory Provident Fund. It is only in case that both the conditions are fulfilled by an employee, he/she could have become the Member of the 1992 Regulations so as to be entitled for the grant of benefits after retirement under the 1992 Regulations. With respect to the petitioner herein, the respondents have stated in the reply that though the petitioner opted for the pension Regulations on 24.11.1992 but the petitioner never complied with the other requirement i.e. repaying the loan, which the petitioner had taken from CPF Fund along with interest and, therefore, keeping in view the said non-compliance of the conditions of the 1992 Regulations, the petitioner was never treated as the member of the 1992 Regulations so as to grant him the benefit.

In rebuttal, the petitioners have attached certain orders, which have been passed by the respondent-Corporation, wherein the implementation of the 1992 Regulations was extended upto 17.04.1993. Counsel for the petitioners argues that the said extension of the date for opting for the 1992 Regulations was never brought to the knowledge of the employees and, therefore, a prayer has been made in the present writ petition that the petitioner be allowed to change/choose the option now and also be allowed to deposit the loan amount so as to become entitled for the grant of the pensionary benefits under the 1992 Regulations.

Counsel for the petitioner further states that there was a subsequent development in the year 2005. Vide order dated 20.07.2005 (Annexure P-13), the Managing Director of the respondent-Corporation passed an order wherein it was mentioned that the Board of Directors in its 189th meeting held on 30.06.2005 vide Agenda Item No.189.4 approved the adoption of Punjab Civil Services Rules, Punjab Government Employees (Conduct) Rules, 1966, Notification, Model Standing Orders etc. for the Officers/official of PRTC and, therefore, by this order, the employees automatically became entitled for pension as provided under Punjab Civil Services Rules and, therefore, there was no requirement of their opting the 1992 Regulations, which stood superseded by the letter dated 20.07.2005.

Another argument raised by the counsel for the petitioner is that though Clause 3 of the 1992 Regulations is not mandatory, which requires that there should not be any default and loan amount which is pending against the name of an employee needs to be repaid/returned prior to the date when he/she opts for the 1992 Regulations in view of Clause 24 of the 1992 Regulations, which gives the power to the Corporation to adjust the amount so taken by an employee as loan at the time of his retirement and, therefore, the employees, who though opted for the Scheme but failed to deposit back the amount of loan, which was outstanding against their names, cannot be treated ineligible as the same can be adjusted at the time of their retirement in view of Regulation 24 of 1992 Regulations.

I have heard the counsel for the parties and have gone through the record of the case with their able assistance.

The first grievance which is being raised by the counsel for the petitioner is that they are being declared ineligible to opt for the 1992 Regulations without giving them an opportunity to comply for the same during the period when the submitting of option and clearing of loan amount was extended upto 17.04.1993 by the Managing Director by issuing letter dated 29.03.1993 (Annexure P-14). Counsel for the petitioner states that in case the said extension of time would have been brought to the notice of the employees concerned in writing, the petitioner would have cleared the requirements as envisaged under the 1992 Regulations so as to become entitled for the grant of pensionary benefits. The relevant portion of the letter dated 29.03.1993 is as under:

> "To
>
> 1. The Administrative Officer,
> PRTC, Patiala.
> 2. All the General Managers,
> PEPSU Road Transport Corporation.
>
> Subject:- Grant of pensionary benefits to the employees.
> Memo:-
>
> Continuation this office letter No.5868/PRTC/Funds dated 15.06.1992 and No.6328/PRTC/Pension/2-92 dated 19.06.1992 on the subject cited above.
>
> 2. The matter regarding extending the date of options for pensionary benefits was taken-up with the Government. The Secretary Transport vide his Memo No.2/14/86-4T (1)/4243 dated 17.03.1993 has extended the period of options for a further period of one month from the date of issue of this letter. In view of the sanction of the Government, you are requested to send the Options forms in respect of the employees who failed to exercise the options or whose options were rejected on account of late submission/non clearance of advances etc. etc. within a fortnight positively. The employees may be directed to

> get their advances cleared within the stipulated period so that their options became valid for pensionary benefits.
>
> Sd/-
> Managing Director
> PEPSU Road Transport Corporation,
> Patiala."

Counsel for the respondents on the other hand states that the said extension for the period of one month was allowed and the said letter granting extension was displayed on the notice board vide endorsement No.7102 dated 31.03.1993. The relevant information given by the respondent-Corporation under RTI to one Sh. Naresh Kumar, who is also one of the petitioners in the present bunch of writ petitons is as under:

> "In compliance of the order dated 26.6.2012 of the Hon'ble State Information Commission, Punjab, the information demanded by Shri Naresh Kumar Sharma, Shakti Nagar, Gali No.5, Barnala is as below:
>
> 1. As per head Office letter No.29465 dated 29.3.1993, the applicant was not issued any separate letter for exercising option for pension.
> 2. For exercising option of pension, the applicant was informed by displaying the above letter on the Notice Board vide Endst. No.7102 dated 31.03.1993."

Counsel for the respondents by placing reliance upon the information given to one Sh. Naresh Sharma under the RTI on 18.07.2012 states that the letter dated 29.03.1993 issued by the Managing Director extending the period for one month was circulated by the Head Office of all the depots and all the depot incharge were asked to inform their employees about the same and the said letter was placed on the notice board. The letters giving information to Naresh Sharma, who is one of the petitioners have been appended as Annexures P-30 and P-31 with the writ petiiton by the petitoner himself.

By relying upon this information, counsel for the respondents argues that the requirement of letter dated 29.03.1993 stood complied with as the same was put on the notice board of all the depots and therefore, no grievance can be made by the petitioner in this regard.

Counsel for the petitioner relies upon the order passed by the Hon'ble Supreme Court of India in **Dakshin Haryana Bijli Vitran Nigam Vs. Bachan Singh**, 2009(14) SCC 793 to contend that the letter extending the date of submitting the option should have been brought to the notice of each and every employee in writing and in the absence of the same, the said action is liable to be rejected and in view of the present facts and circumstances of the case, the petitoner should be given an opportunity now to opt for the 1992 Regulations or to clear the conditions of applicability for the grant of pension and other benefits.

The question of law which is being raised in the present writ petition, had come up for consideration before this Court on an earlier occasion also. This Court while considering the plea for the grant of pension under the 1992 Regulations in a Regular Second Appeal, which was filed by the Corporation against an order passed against the Civil Court directing them to treat an employee under the 1992 Regulations, dismissed the said Regular Second Appeal holding that the employees who had not opted for the pension scheme under the 1992 Regulations or the employees who had not fulfilled the conditions of eligibility under the 1992 Regulation be treated as a part of the 1992 Regulations for the grant of pension.

This Court while deciding the Regular Second Appeal observed that there is no evidence on record that the pension scheme was ever circulated within the employees and got noted by them and, therefore, the pension of the employees cannot be declined on the technical ground that the employees had not refunded the loan amount.

The respondent-Corporation filed Civil Appeal No.3842 of 2011, titled as **Pepsu Road Transport Corporation, Patiala Vs. Amandeep Singh and others**, which came to be decided by the Hon'ble Supreme Court of India on 03.01.2017. Hon'ble the Apex Court while considering all the facts including Regulation 3, which gives the eligibility and the application of the 1992 Regulations and also the Regulation 4 under which an employee was supposed to opt for the 1992 Regulations within a period of six months, held that the provision of the 1992 Regulations are mandatory to be complied with by an employee to get the benefit of the pension under the 1992 Regulations. An employee, who either did not opt for the same or though opted but failed to refund/re-pay the loan amount were held to be not eligible for the grant of pension.

While considering the case of the similarly situated employees as the petitioner herein, the Hon'ble Apex Court also recorded a finding that there was no provison under the 1992 Regulations that the Scheme is to be got noted in writing from each employee and in the absence of any such requirement, the employees who did not opt for the Scheme or did not fulfill the other requirements of the Scheme were rightly declined the benefit of the 1992 Regulations for the grant of the pensionary benefits. The relevant paras of the judgment are as under:

> "13. A perusal of the Regulations indicates that the Regulations are applicable to the following two categories of employees i.e. : Who were/are appointed on or after the date of issue of Regulations on whole-time and regular basis, and Who were working immediately before the date of issue of Regulations and opt for these Regulations.
>
> 14.The applicability of Regulations to the employees who were working immediately before the date of issue of Regulations i.e. 15th June, 1992 was dependent on the opting for Regulations within a period of six months from the date of issue of Regulations as provided under Regulation 4.
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> 15.Further as per Regulation 4 (iii) if an option is not exercised within a period of six months from the date of issue of Regulations, it shall be deemed that the employee has to continue with the existing Contributory Provident Fund benefit, thus in the event of non-exercise of option within the period prescribed, the employee is deemed to continue in the existing CPF benefit. The deeming clause has been incorporated in the statutory provisions for achieving a purpose i.e. those who do not opt within six months new scheme, they shall continue in the existing CPF benefit. There are no exceptions engrafted in the deeming provisions and the deeming is a legal fiction which embraces all the employees who do not opt for new pension scheme. The suit filed by the plaintiff had been decreed mainly on the ground that notice inviting option

> has not been personally served on the plaintiff. Whether notice is required to be personally served to an employee before the period of six months as provided in Regulation 4 may start running is the question to be answered. A plain reading of the Regulations does not indicate that period of six months which is provided for submitting an option is dependent on personal service of notice. Although, as noticed above the Regulation has been forwarded on 15th June, 1992 itself to the General Manager of all the Depots and other places and the letter dated 15th June, 1992 further contemplates putting on the notice board in the Head Office and the Depots, the Corporation has thus taken care of circulation of Regulation to all concerned including the Head Office and all the Depots."

Counsel for the petitioner has tried to distinguish the said judgment by stating that the letter issued by the Managing Director dated 29.03.1993 extending the date of option for the 1992 Regulations was never brought to the notice of the Hon'ble Supreme Court of India and as the employees were to be informed in writing in respect of the extended date, which was not done by the respondents, the judgment in **Amandeep Singh's case (supra)** will not be applicable in the present case.

In order to appreciate the said argument, the letter dated 29.03.1993 written by the Managing Director has already been reproduced in the preceding paras.

A bare perusal of the same would show that the depots were required to send the option forms of the employees, who get their advances cleared so that their option becomes valid for the pensionary benfits. Counsel for the petitioner states that prior to the letter dated 29.03.1993, another letter was written by the Corporation on 02.12.1992 wherein, there was a requirement that the employees should be informed to get their loan adjusted by 14.12.1992, which letter was never brought to the notice of employees in writing by the respondents and, therefore, the inaction on the part of the respondents-Corporation has made the petitioner ineligible for the grant of pensionary benefits under the 1992 Regulations.

Counsel for the petitioner argues that in the absence of any written communication given to each and every employee about the extension of Pension Scheme upto April, 1993, renders the action of the respondents in declaring the petitioner ineligible for the Scheme, illegal and arbitrary.

In support of his arguments, the petitioner has relied upon the order passed by the Hon'ble Apex Court in **Bachan Singh's case (supra)** where the Hon'ble Apex Court has held that the instructions if any, which got noted by the employees cannot be treated as information and in the absence of getting the extension noted from the petitoner, the implementation of the Scheme by the respondents by declaring the petitioner ineligible is liable to be rejected.

The judgment in **Bachan Singh's case (supra)** has already been considered by the Hon'ble Supreme Court of India in **Amandeep Singh's case (supra)** and the same has already been distinguished by the Hon'ble Supreme Court of India. Though the Hon'ble Supreme Court of India has distinguished the said judgment keeping in view the provisions of the 1992 Regulations. The relevant paras of the judgment of the Hon'ble Supreme Court of India in **Amandeep Singh's case (supra)** are as under:-

> 16.Learned counsel for the respondents has placed reliance on judgment of this Court in Dakshin Haryana Bijli Vitran Nigam and others Vs. Bachan Singh, (2009) 14 SCC 793. In the above case a Circular was issued by the Dakshin Haryana Bijli Vitran Nigam for grant of benefit of work-charge service towards pensionary benefits dated 6th August, 1993 which also provided for option in paragraph 5 of the judgment. The Circular has been extracted which is to the following effect: "5. The appellants had issued instructions dated 6.8.1993 for the grant of benefit of work-charge service towards pensionary benefits. The said letter of 6.8.1993 is reproduced as under:-
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> "From : The Additional Secretary, Haryana State Electricity Board (HSEB), Panchkula Memo No. Ch.9/Pen/G-G-43(93) Dated 6.8.93 Sub: Amendment in the Punjab CSR Vol.II-Adoption of State Govt. Notification The Haryana State Electricity Board in its meeting held on 23.6.1993 has approved the adoption of Haryana Govt. Notification No.1/2 (55)-88-2 FR-II dated 4.2.92 (copy enclosed for ready reference) with regard to the counting of service rendered by the workers in the work charged capacity towards pensionary benefit scheme. 2. However, most of the Board's workcharged employees are members of Employees Provident Fund (EPF). As such, the pensionary benefit would be subject to the following conditions:- i) On regularization from workcharged to regular

employee, the employee has to submit an option within a period of 3 months from the date of regularization or from the date of issue of this circular, whichever is later as to whether he/she intends to count the period of workcharged service rendered by him/her towards pensionary benefits or intends to continue to be a member of EPF. The option is required to be furnished in writing to his drawing & Disbursing Officer who will authenticate and record its entry in the service book of the employee and also paste the same in the service book so as to form a permanent record for future reference. The Drawing & 4 Disbursing Officer will also inform about his/her option to the appointing authority immediately. ii) The option once exercised will be final and not to be allowed to be changed in any circumstances. In case option is not given within the stipulated period of three months, it will be presumed that he/she intends to continue to be a member of EPF. iii) In case, he/she opts for pensionary benefits, he/she has to refund the entire amount of employee's contribution along with interest thereon, towards their EPF in lumpsum for crediting to the Board's account, Employee's contribution alongwith interest is to be deposited with the Board for crediting to his/her GPF account. 3. Similarly, the above benefit will also be available to the pensioners/recipients of family pension of the Board on the same terms and conditions with the exception that they will have to deposit the amount contributed by the Board as Employee's contribution towards EPF alongwith interest thereon, in lumpsum. The pensioners/recipients of family pension will have to give an Affidavit to the fact that he/she will not claim any interest on the arrear of pensionary benefits which become payable due to adoption of the State Govt. circular. The pensioners/recipient of family pension will submit their option within 3 months from the date of issue of this circular, for availing pensionary benefits, to the Head of the office last attended. The option once exercised will be final. In case, option is not given within the stipulated period of 3 months, it will be presumed that he/she intends to continue to be a member of EPF. 4. These instructions may please be got noted from all the employees and acknowledge and receipt of the letter. Sd/- Under Secretary (PW) For Additional Secretary, HSEB, Panchkula"

17. The period for option was further extended. Certain circulars were further issued on 9th August, 1994. The respondent in the above case contended that he had no knowledge about the instructions, hence he could not exercise his option for grant of pensionary benefits within the prescribed time-limit. The writ petition filed by the respondent was allowed by the Punjab and Haryana High Court by recording a finding that appellant had failed to produce any record showing that the instructions dated 6.8.1993 and 9.8.1994 were actually got noted in writing from the respondent. The said finding has been recorded in paragraph 13 is to the following effect:

"13. The Division Bench of the Punjab and Haryana High Court, after hearing the learned counsel for the parties at length, came to the definite conclusion that the appellants had failed to produce any record showing that the instructions dated 6.8.1993 and 9.8.1994 were actually got noted in writing from the respondent. The High Court further observed that in the absence of any such material, it can well be inferred that the respondent had no knowledge about the options called by the appellants vide circulars dated 6.8.1993 and 9.8.1994. The High Court also observed that it would be unreasonable to deny pensionary benefits to the respondent despite the said circulars issued by the appellants."

18. Ultimately, this Court dismissed the appeal relying on the finding of the High Court that the appellant had failed to produce any record showing that the instructions were actually got noted in writing from the respondent.

19. The above case was decided on the strength of specific instructions contained in Circulars dated 6.8.1993 and 9.8.1994. Both the above instructions contained following as one of the clauses: "These instructions may please be got noted from all the employees and acknowledge and receipt of the letter." Thus, noting by the employees and acknowledge and receipt was a condition incorporated in the instructions itself and due to breach of the said instructions benefit was given to the respondent in the said case. The above case has no application in the facts of the present case where the Regulations do not contain any such requirement of personal service of notice whereas Annexure R-3 indicates that Corporation on the same day by letter dated 15th June, 1992 has circulated Regulations to all the General Managers with endorsement to be put it on the Notice Board. The Corporation had taken due care to inform all its Headquarters and Depots and all concerned about the Regulations."

Argument of the counsel for the petitioner that letter dated

29.03.1993 extending the date of the option should have been got noted from each and every employee is liable to be rejected in view of the wording of the said letter. The letter only states that the period of one month has been granted for submitting the options and all the depots were required to send the option of the employees, who get their advances cleared within the said stipulated period so that they can be considered for the benefits under the 1992 Regulations. There is no requirement in the letter dated 29.03.1993 that the same has to be got noted from each and every employee of the depot. The respondents rely on an information which has been supplied to one Naresh Kumar, who is one of the petitioners, under RTI on 01.02.2012 (Annexure P-30) and 18.07.2012 (Annexure P-31) which clearly states that the letter of the Managing Director was put on the notice board of all the depots. This, in my opinion, satisfies the requirement of information to the employees and, therefore, no grievance can be made by the petitioner in respect of ignorance about the letter issued by the Managing Director on 29.03.1993.

Further, once the Hon'ble Supreme Court of India has held that there was no provision in the 1992 Regulations that it has to be got noted from each and every employee in writing, hence the argument of the counsel for the petitioner that the letter extending the date of the scheme issued by the Managing Director on 29.03.1993 should have been got noted from each and every employee in writing has no ground. The letter dated 29.03.1993 does not grant any additional benefit as compared to the main 1992 Regulations which has already been interpreted by the Hon'ble

Supreme Court of India more than once to hold that there was no requirement of getting the Regulations noted from each and every employee before its implementation. Therefore, the argument being raised by the counsel for the petitioner that it was mandatory on part of the respondents to get the letter dated 29.03.1993 issued by the Manging Director of the respondents-Corporation noted from each and every employee cannot be accepted.

The second argument of the counsel for the petitoner is that Regulation 24 of the 1992 Regulations grants the time to the employees to deposit their outstanding amount before their retirement and, therefore, non-deposit of the loan amount as required under the Regulation 3(H) of the 1992 Regulations, which runs contrary to Regulation 24 has to be declared as non-mandatory and, therefore, the employees, who though opted but were in arrears as they failed to refund/repay the amount of advance taken by them cannot be treated ineligible. This question has also been considered by the Hon'ble Supreme Court of India in Civil Appeal No.4111 of 2008 and other connected cases which were decided on 12.05.2011 titled as **Pepsu Road Transport Corporation, Patiala Vs. Mangal Singh and others** and other connected cases. After noticing Regulation 24, no benefit was extended by the Hon'ble Supreme Court of India by holding that the statutory bodies as well as the general public are bound to comply with the terms and conditions laid down in the Regulations as a legal compulsion and any action and order in breach of terms and conditions of the Regulations shall amount to violation of the Regulations, which are in nature of statutory provison and shall render such action or order illegal and invalid. The relevant portion of the judgment is as under:

> "Regulation 24. Adjustment and Recovery of dues: (1) The competent authority shall take steps to assess the dues outstanding against the employee two years before the date on which he is due to retire on superannuation.
>
> (2)The assessment of the outstanding dues against the employees shall be completed by the competent authority eight months prior to the date of his retirement.
>
> (3)The dues as assessed including those dues which come to the notice subsequently and which remain outstanding till the date of retirement of the employee, shall be adjusted against the amount of death-cum- retirement gratuity becoming payable to the employee on his retirement.
>
> (4) When an employee retries from service, an office shall be issued to that effect by competent authority.
>
> (16) It is well settled law that the Regulations made under the statute laying down the terms and conditions of service of employees, including the grant of retirement benefits, has the force of law. The Regulations validly made under statutory powers are binding and effective as the enactment of the competent legislature. The statutory bodies as well as general public are bound to comply with the terms and conditions laid down in the Regulations as a legal compulsion. Any action or order in breach of the terms and conditions of the Regulations shall amount to violation of Regulations which are in the nature of statutory provisions and shall render such action or order illegal and invalid."

Thereafter, the said question was again raised before this Court in CWP No.9740 of 1999 decided on 01.03.2017 titled as **Ratti**

Ram Vs. PRTC and another. A co-ordinate bench after considering Regulation 24, declined the relief to the similarly situated personnel as the petitioner, who were also asking for the same relief as being sought in these petitions. The relevant para of the said judgment is as under:

> "Learned counsel for the petitioner has vehemently argued that under Regulation 24 the loan could have been adjusted from the retiral benefits. Regulation 24 is reproduced as under:-
>
> 24.Adjustment and recovery of dues: (1) The competent authority shall take steps to assess the dues outstanding against the employee two years before the date on which he is due to retire on superannuation.
>
> (2) The assessment of the outstanding dues against the employees shall be completed by the competent authority eight months prior to the date of his retirement.
>
> (3) The dues as assessed including those dues which come to the notice subsequently and which remain outstanding till the date of retirement of the employee, shall be adjusted against the amount of death-cum-retirement gratuity becoming payable to the employee on his retirement.
>
> I am of the view that the petitioner is precluded from seeking protection of Regulation 24. Regulation 24 does not nullify the effect of Regulation 3. It only pertains to adjustment and recovery of dues on account of retirement. Adjustment and recovery of dues is one thing and dis-entitlement under Regulation 3(h) is another thing. Under Regulation 24 if some recovery is due from the employee, it

could be adjusted. However, it does not mean that even if employee failed to comply with Regulation 3(h), then the said amount is to be adjusted at the time of retirement and the employee is still entitled to benefit of pension under Pension Regulations 1992."

Further, I am of the view that in order to become eligible, an employee is required to comply with the provisions of the applicability as envisaged under Regulations 3 and 4. It is only when an employee becomes eligible under Regulations 3 and 4, the provisions of Regulation of 24 will apply. The provisions of Regulation 24 will only apply to those employees, who are found eligible in all respects for the grant of relief under the 1992 Regulations. Regulation 24 cannot be interpreted to mean that an employee who is ineligible under Regulations 3 and 4 is to be treated a Member of the 1992 Regulations so as to grant him/her the benefit under the same though he/she is in arrears and has not refunded the amount of the loan advanced. Regulation 24 is to be read with regard to any advances which an employee has taken after becoming the member of the 1992 Regulations and not the employees who were not eligible to be a part of the 1992 Regulations keeping in view the eligibility laid down in the 1992 Regulations. Therefore, even this argument of the petitioner is of no avail to declare him the Member of the 1992 Regulations so as to grant him the option of pension and hereby is rejected.

An alternative argument has been raised by the counsel for the petitioner that after the issuance of letter dated 20.07.2005 by the Managing Director, the 1992 Regulations no longer exists and the employees are to be treated eligible for the grant of pension under Punjab Civil Services Rules. The order dated 20.07.2005, which is being relied by the counsel for the petitioner is as under:

> "The Board of Directors in its 189th meeting held on 30.06.2005 vide agenda item No.189.4 approved the adoption of Punjab Civil Services Rules, Punjab Govt. Employees (Conduct) Rules, 1966, Notification, Model Standing Orders etc., for the officers/officials of PRTC. This decision will cover all the decisions made under all these rules/notification/standing orders with retrospective effect as well as prospectively.
>
> Sd/-MANAGING DIRECTOR
> PRTC, PATIALA"

Before appreciating the arguments of the counsel for the petitioner that after 20.07.2005, the 1992 Regulations will not be in operation and the employees will be granted pension under the Punjab Civil Service Rules, wherein there is no requirement of the option, certain facts needs to be recorded such as the agenda, which was approved by the Board of Directors in its 189th meeting held on 30.06.2005, in pursuance of which the letter dated 20.07.2005 was issued by the Managing Director.

Keeping in view the order passed by this Court in a review petition No.397 of 2017, which was also initially tagged along with the present bunch of petitions, learned counsel for the Corporation had produced the agenda item, which was considered by the Board of Directors in its meeting held on 30.06.2005, which was supplied to the counsel for the petitioners as well. The agenda item which was put before the Board of Directors for its 189^{th} meeting being Agenda Item No.189.4 is as under:

" *Agenda Item No. 189.4*

Subject:- ***Applicability of Punjab Civil Services Rules, Regulations, Notifications, Model Standing Orders etc. for officers of PRTC.***

The matter regarding applicability of Punjab Civil Service Rules including punishment and appeal rules, Notifications, orders, Model Standing Orders, amendments from time to time issued by the State of Punjab regarding service conditions applicable to Punjab Govt. employees to the extent it is practicable in PRTC for its officers till the finalization of PRTC Officers (Conditions of Appointment & Service) Regulations, was placed before the Board of Directors vide Agenda Item No. 141.9 and the following decision was taken:-

The proposal may be re-examined after taking the following points into consideration:-

a) Categories of posts on which labour laws are not applicable.

b) The service rules of certain other Corporation which are more progressive should be studied and wherever possible adopted by the PRTC.

The matter has been examined regarding (a) above, it submitted that the labour Laws are applicable on all the categories of employees of the Corporation covered under PRTC (condition of Appointment & Service regulation, 1981, the other officers of the Corporation for whom this proposal is meant are not covered under the Labour Laws like Factory Act, Motor Transport worker Act, Workmen Compensation Act, Industrial Disputes Act, Minimum wages Act etc. But certain Labour Laws like provident Fund Act, Gratuity Act, ESI Act etc., are applicable to the officers of the Corporation Subject to the conditions contained in such Acts. Regarding (b) it is submitted that the Service Rules of certain other Corporation/Boards/Financial

Institutions are being obtained and these will be studied & adopted while finalizing the PRTC Officers (Condition of Appointment & Service) Regulations.

Due to absence of officers Rules, the management is facing difficulties in dealing with cases of officers in courts.

In view of above, it is proposed that till the finalisation of officers Rules, the Punjab Civil Service Rules including punishment and appeal rules, notification orders, model standing orders, amendments from time to time issued by the State of Punjab regarding service condition applicable to Punjab Govt. employees to the extent the same are practicable in the PRTC should be made applicable for governing the service conditions of officers of PRTC Regarding other matters pertaining to delegation regarding appointing authority punishing authority, appellate authority and qualifications, experience for promotion etc. rules are approved by the Corporation from time to time be followed.

The matter was placed before the Board of Directors in its 142nd meeting for consideration and approval. The Board of Directors deferred the Agenda Item. The matter was again placed before the Board of Directors in its 143rd meeting and it was decided that a separate agenda will be placed before the Board.

It is also proposed that in addition to the above the Govt. employees (Conduct) rules 1966 may also be applicable on the officers/officials of the Corporation where-ever these are required.

The matter is again placed before the Board of Directors for consideration and approval.

Following are the categories of Officers on which the Punjab Civil Service Rules, Regulations, Notifications, Model Standing Orders etc. as mentioned in the Agenda Item will be applicable:-

1. *CAE-TA*
2. *XEN*
3. *SLA*
4. *General Managers*

5. SDO
6. Deputy Controller, (F&A)
7. Asstt. Controller (F&A)
8. Work Manager
9. Service Engineers
10.Body Fabrication Engineers
11.Traffic Manager
12.Legal Advisors
13. Medical Officers"

A bare perusal of the Agenda would show that intention of the Corporation was to decide in respect of officers of the PRTC, who were not covered under the Labour Laws such as Factory Act, Motor Transport Workers Act, Workmen Compensation Act, Industrial Disputes Act and the Minimum Wages Act, to have some Rules governing their services till the same are framed and approved by the PRTC. It was proposed in the agenda item that for the officers, a description of whom was also given in the annexure to the Agenda, the Punjab Civil Services Rules including Punishment Rules, Notification and the Model Standing Orders amended from time to time be adopted to regulate the service conditions of the Officers of the PRTC. Further, there is no mention in the agenda that there is any intention to supersede the 1992 Regulations dealing with the grant of pension to its employees or the agenda was in any way relating to the grant of pension to the employees of the corporation under Punjab Civil Services Rules.

Counsel for the petitioners very fairly submitted that none of the petitioner is covered under the cadres, which were mentioned in the annexure to the agenda item, who were to be covered in respect of decision, which was taken by the Board of Directors in its 189th meeting. After the agenda was approved, a letter was written by the Managing Director on 20.07.2005, which have been reproduced above already.

Counsel for the petitioner argues that though the agenda only relates to the officers but in the order which has been passed by the Managing Director, the words used are official/officers of the PRTC will be governed by the Punjab Civil Services Rules and, therefore, the case of the petitioners who were working on the post of drivers, conductors i.e. (Class III and IV posts) will also be covered by the said letter to be governed by the Punjab Civil Services Rules for the grant of pension and the 1992 Regulations stand superseded.

The said argument cannot be accepted once the agenda item was clear that agenda was for totally different purpose than being interpreted by the counsel for the petitioner. As there were no Rules governing the service of the officers of the PRTC, the cadre detail of which was also given in the agenda in order to regulate their service conditions, before the Corporation frames its own Regulation in respect of those employees, Punjab Civil Services Rules including the Punishment and Appeal Rules and the Conduct Rules are being adopted, the same will be applicable only upon the cadres, the details of which were given in the agenda. Once the cadre of the petitioner is not covered in the said agenda which was approved by the Board of Directors in its 189th meeting held on 30.06.2005, no benefit can be granted in relation to the letter issued by the Managing Director on 20.07.2005.

Not only this, there is no mention in the agenda that by adopting Punjab Civil Service Rules, 1992 pension Regulations stands superseded. 1992 pension Rules have been approved by the Board of Directors and till the same were specifically superseded or repealed by showing clear intent for the said purpose, interpretation as being advanced by the learned counsel for the petitioner that after the issuance of letter dated 20.07.2005, 1992 Pension Regulations automatically stands superseded, cannot be accepted. The claim of the petitoner that after the letter dated 20.07.2005, the pension Regulations 1992 became redundant, cannot be accepted. In fact after the issuance of the letter dated 20.07.2005, the pension regulations remain in operation for all the employees of the Corporation and they are still being paid pension under the 1992 Regulations even as of now.

It is a matter of fact, which needs to be highlighted, that not only the petitioner but even the officers, in respect of whom, the Board of Directors had taken the decision to adopt the Punjab Civil Services Rules, Punishment and Appeal Rules and Conduct Rules to regulate their service conditions, are also being governed by the 1992 Regulations for the grant of pension even as of now. Once that be the position, the intention of the Corporation is clear that there was no supersession of the 1992 Regulations at any given point of time or even the Agenda, which was approved by the Board of Directors in its meeting held on 30.06.2005 i.e. 189th meeting, was in any way connected with the supersession of the 1992 Regulations, which were already in existence for the grant of the pensionary benefits to all the employees of the Corporation. Therefore, the argument of the petitioners that after the letter dated 20.07.2005 issued by the Managing Director, the 1992 Regulations stand superseded, is without any basis, hence is rejected.

A coordinate bench in CWP No.4218 of 2012, titled as **Ajmer Singh Vs. Pepsu Road Transport Corporation and others** has already rejected the similar plea and even the review petition filed by the petitioner therein being RA No.397 of 2017 has already been rejected on 07.05.2019. Keeping in view this, the plea of the petitioner that after the letter dated 20.07.2005, pension regulations of 1992 became redundant/stand superseded, is rejected.

Counsel for the petitioner has further argued that even otherwise, the action of the respondents in declining the benefit of the 1992 Regulations to the petitioner either on the ground that he has not opted or on the ground that he has not refunded/repaid the amount which he had taken as a loan by treating him ineligible keeping in view the conditions of Clause 3 of the 1992 Regulations is discriminatory as the personnel, who even according to the respondents did not apply under the 1992 Regulations, have been granted the benefit of pension. Three instances have been given by the counsel for the petitioner, one of them is Sh. Harjinder Singh, driver F 199. Counsel for the petitioner relies upon Annexure P-18, which is a noting wherein the case of Sh. Harjinder Singh has been discussed by the respondents for the grant of pension. In respect of Harjinder Singh, counsel for the respondents had accepted that there was no pension form available on the file and it can be safely presumed that he had not opted for the Regulations but right from the day one, his benefits under the Pension Regulations of 1992 were deducted. This was done for the reason that there was a list which was prepared by the respondent-Corporation of the employees who were to be covered under the CPF Scheme. In the list of employees, who were to be treated under CPF scheme were those employees, who had either not opted for or declined to opt for the pension Regulations of 1992. Name of Sh. Harjinder Singh was not mentioned in the said CPF Scheme and, therefore, his deductions were being done regularly by treating him as the member of the 1992 Regulations. The said Harjinder Singh unfortunately died on 23.10.2010 while in service and, therefore, keeping in view the fact that there was some confusion that even though there was no pension form available but as all deductions were made as required under the 1992 Regulations right from the day one, the competent authority decided to give the pensionary benefits to the family of the deceased by not raising any objection and, therefore, the claim of petitioners that they are similarly situated as Sh. Harjinder Singh, is liable to be rejected.

I am agreeable with the explanation which has been given by the counsel for the respondents to grant the pensionary benefits to family of Sh. Harjinder Singh, who unfortunately died during the service career. Rightly or wrongly, Sh.Harjinder Singh was being treated as a Member of the 1992 Regulations and also his benefits were being deducted right from the day one as required under the 1992 Regulations. Hence, petitioner cannot claim parity with Sh. Harjinder Singh so as to claim the benefit under 1992 Regulations.

Counsel for the petitioner has also given the names of Sh. Bachitter Singh, Sh. Sardol Singh, Sh. Surjit Singh and Sh. Charan Singh.

Counsel for the respondents states that though the pension forms of these employees are not available on record but the deductions were being made from them right from the day one under the 1992 Regulations as in the case of Sh. Harjinder Singh and their names never figured in the list of the employees, who were to be treated under CPF Scheme and, therefore, these employees were also similar as Harjinder Singh, who had been granted the benefit and the petitioner cannot claim themselves similar to the above mentioned employees as in the case of the petitioner, he had not fulfilled the requirements of submitting the options coupled with no deduction being made from them at any given point of time during their service career or thereafter under the 1992 Regulations. Therefore, the petitioner cannot claim himself to be similarly situated as the above mentioned employees.

The explanation which has been given by the counsel for the respondents has merit. In the case of the petitioner, no deduction was ever made under the 1992 Regulations and they were never treated as part of the pension scheme of 1992 whereas the employees, whose description has been noted above, were treated a part of the pension scheme of 1992, though no option form is available by which they had opted for the scheme. Once the deductions were made from these employees during their service career under 1992 Regulations, they were rightly granted the benefit of pension by treating them eligible under the 1992 Regulations. The cases of the petitioners are not similar to those employees so as to claim discrimination for the grant of benefit under the 1992 Regulations.

Argument of the counsel for the respondents that the present writ petitions are covered by the decision(s) rendered by the Apex Court in **Amandeep Singh's case (supra) and Mangal Singh's case (supra)** wherein same benefit as being asked by the petitioner herein has been declined has merit and deserves to be accepted. The decision rendered by the Apex Court was that once an employee has taken the benefit under the CPF after retirement, he/she cannot claim the benefit under the 1992 Regulations. Counsel for the respondents states that in case of almost all of the petitoners, they have already taken the benefit under CPF, retired and went home and it is only after expiry of certain period of their retirement, the present writ petitions were filed. Once the case of similarly situated employees already stand rejected by the Hon'ble Supreme Court of India, no relief can be claimed by the petitioner at this stage. Once the question of law for the grant of pension in respect of similarly situated employees has already attained finality upto the Hon'ble Supreme Court of India, which reversed the order passed by this Court granting the benefit of pension to the similarly situated employees as the petitioners herein, no relief can be granted to the petitioner. In case, the request of the petitioners is accepted that they are entitled for the pension under the 1992 Regulations though either they had not applied for the same or had not fulfilled the conditions as envisaged under the 1992 Regulations, will amount to treating two similarly situated employees in a different manner as the case of similarly situated employees for the grant of pension under the 1992 Regulations stand rejected. Counsel for the petitioners have not been able to produce any document that the petitioners in these petitions are not similarly situated as the respondents before the Supreme Court of India where the relief has been declined to them except that the benefit of letter extending the date of option, was not brought to the notice of the Hon'ble Supreme Court of India, which point has not been agitated by the similarly situated persons before the Apex Court in **Amandeep Singh's case (supra) or Mangal Singh's case (supra)** as the case may be. Once it has been held in this order that there is no illegality in the implementation of the 1992 Regulations and the letter extending the date of applicability of the 1992 Regulations was not required to be got noted from each and every employee, the petitioner herein cannot claim that they are in any way different than the respondents, who were there before the Hon'ble Supreme Court of India and have been declined the similar relief.

Before parting, Sh. Japinder Singh, who is the petitoner No.27 in CWP No.24129 of 2014 has appeared in person and states that he alongwith Sh. Ranjot Singh had duly submitted the option form, which has been recorded in the register at Sr. No.8941 dated 06.11.1992 and there was no loan outstanding against him and, therefore, their case is different as compared to the other petitioners in CWP No.24129 of 2014. Petitioner No.27 states that even petitioner No.28 Ranjot Singh had also submitted the form, which is duly registered in the Register form with respect of their submitting the option for opting pension scheme.

Counsel for the respondents very fairly states that in case of these two petitioners, the record will be verified again and an appropriate order will be passed in respect of their claim for the grant of pension under the 1992 Regulations. Counsel for the respondents states that in case it is found that petitioners No.27 and 28 in CWP No.24129 of 2014 have submitted their option forms, the pensionary benefits will be granted to them and the same will be finalized within a period of two months.

In view of the above, the claim of the petitioner for the grant of pension under the 1992 Regulations is declined. Further, the prayer of the petitioner to be treated under the Punjab Civil Services Rules for the grant of pension by excluding the 1992 Regulations, is also declined. The action of the respondents in implementing the 1992 Regulations upon the petitoners and declining the grant of relief to the petitioner under the 1992 Regulations, is upheld.

The above mentioned writ petitions are dismissed with no order as to costs.

May 13, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No