

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

(203)

CWP-24638-2012 (O&M)

Date of Decision: March 06, 2019

Bishamber Dass (since deceased) through LR's

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Dadwal, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that the commuted value of the pension given to the petitioner should be @ 10.46 instead of 8.371 as given to the petitioner at the time of his retirement.

As per the averments made in the writ petition, the petitioner retired from service on 30.04.2009.

Learned counsel for the petitioner states that on the date when the petitioner retired, the commuted value of the pension was to be calculated @ 10.46 whereas, the respondents have wrongly calculated the said commuted value of the pension @ 8.371 and therefore, the petitioner approached this Court for issuance of direction to the respondents to grant him the benefit of commuted value of pension @ 10.46 as was applicable at the time of his retirement.

Upon notice of motion, the respondents have filed the reply.

In the reply, the respondents have admitted that the case of the petitioner for the revision of his commuted value of the pension was sent to the Accountant General, Punjab, but as the petitioner had not opted for the revised table, a letter was sent to the petitioner on 14.08.2013 seeking his option for commuted value of the pension on old rates. In reply to the said letter, the petitioner wrote on 16.08.2013 that as he has already filed the present writ petition, he will not take any action in respect of the letter dated 14.08.2013. The relevant paragraph of the reply is as under:-

“4. That considering the claim of the petitioner for calculating his commutation value of pension at the rate of 10.46 years, vide letter No.85, dated 01.06.2013, the case of the petitioner for revision of commutation value of pension of the petitioner was sent to the respondent No.4. A copy of this letter is being appended as Annexure R-2 hereto for the kind perusal of this Hon'ble Court. In return, the respondent No.4 vide letter dated 25.07.2013, inter-alia, observed that in case the petitioner opts to commute the amount of pension that has become additionally commutable on account of retrospective revision of pay/pension, the revised table of commutation (8.371) will be used for the commutation of additional amount of pension. A copy of the said letter dated 25.7.2013 is being appended as Annexure R-3 for the kind perusal of this Hon'ble Court. Thereafter with a view to obtain option from the petitioner, vide letter No.144, dated 14.08.2013 the petitioner was asked to send his option for opting out the commutation value of pension as per old rate i.e. 10.46 years in the pre-revised pay scale. In reply to

the said letter, the petitioner vide his application dated 16.08.2013 has pleaded that as matter is sub-judice and is pending before this Hon'ble Court, therefore, at this stage no action in the matter warrants to be taken, which adversely affects his legal right. A copy of the said letter dated 16.08.2013 is being appended as Annexure R-4.

Owing to these reasons, the case of the petitioner for revision of his commutation value of pension could not be sent to the respondent No.4, who is the competent authority for issuance of necessary authority in this matter. In the absence of any option as stated above, the answering respondents are not able to proceed further in the matter.”

Today, at the time of hearing, counsel for the petitioner states that unfortunately, during the pendency of the present writ petition, petitioner has died and the required option as being sought by the respondents vide letter dated 14.08.2013, will be given by the legal heirs immediately and let the case for the grant of commuted value of the pension as mentioned in Annexure R-3 i.e. letter dated 25.07.2013 be processed by the respondents for giving the commuted value of pension @ 10.46.

Learned counsel for the respondents has no objection for considering the case of the petitioner for the grant of the commuted value of pension to the legal heirs of the petitioner @ 10.46 as mentioned by them in the reply reproduced above.

Learned counsel for the respondents states that the appropriate order will be passed within a period of three months on the submission of the option by the legal heirs of the petitioner granting the benefits to the

petitioner/his legal heirs.

In view of the above, counsel for the petitioner does not press the writ petition any further and the same is disposed of as not pressed.

March 06, 2019
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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