

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

**209**

**CWP No.25470 of 2014 (O&M)  
Date of decision: 06.03.2019**

**Ram Kishan & Another**

**..Petitioners**

**Vs.**

**Punjab State Power Corporation Ltd. Patiala & Ors.**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Amarjeet Singh, Advocate  
for the petitioners.

Mr. Vikas Chatrath, Advocate  
for the respondents.

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**HARSIMRAN SINGH SETHI, J.(ORAL)**

In the present writ petition, the challenge is to the order dated 22.09.2014 (Annexure P-6) vide which, the claim of the petitioners for the restoration of full pension after expiry of 12 years have been rejected. The claim of the petitioners is that the full pension should be restored after expiry of 12 years of the retirement of the petitioners. Petitioner No.1 retired on 31.05.2001 as Additional Superintending Engineer whereas petitioner No.2 retired as Chief Engineer on 30.11.2011. After the retirement, the pensionary benefits were released to both the petitioners after commutation of their pension and the benefit of the said commutation of pension was granted to them. As per the order Annexure P-1, passed regarding the commutation of the pension, it was mentioned that full pension will be restored on completion of 70 years of age and, therefore, as the petitioners retired at the age of 58 years, after a period of 12 years, the petitioners were to

**become entitled to restoration of the full pension. Request of the**

petitioners was denied by the respondents vide Annexure P-6 dated 22.09.2014. The said denial was based upon the decision of the respondents taken on 21.07.1998 by which the decision of the Government of Punjab as issued vide letter dated 04.09.1998, according to which the employees who retired on or after 01.01.1996, the restoration of full pension will be made after 15 years of their retirement was adopted. The said rejection of the claim is under challenge in the present writ petition.

Upon notice of motion the respondents have filed the reply. In the reply it is mentioned that Government of Punjab vide order dated 16.07.1998, has directed that the retirees who retired after 01.01.1996, the restoration of their pension will only be done after a period of 15 years of their retirement. Respondents have stated in the reply that in pursuance to the notification issued by Government of Punjab dated 21.07.1998, respondents-Board (now Corporation) duly adopted by the same on 04.09.1998 the employees of the Board who retired after 01.01.1996 will be entitled the restoration of commuted pension after 15 years. The relevant portion of the reply is as under:-

"It is relevant to highlight that erstwhile PSEB had been unbundled into two companies namely PSPCL and PSTCL on 16.04.2010, however, as per Tripartite Agreement, the earlier instructions; rules of the same would continue to hold good. It is relevant that on the implementation of the recommendations of the 4<sup>th</sup> Punjab Pay Commission Report regarding pension and other retiral benefits, the same also included commutation of pension etc. Vide Notification dated 16.07.1998 issued by Department of Finance, Punjab, under Para No. 8.3, it was notified that

the relevant provisions of Punjab Civil Services Rules, Vol.II, shall be deemed to have been amended to the extent of the contents of the letter and a Notification shall be issued in this regard. Consequently, the writ petition filed by the petitioners is bereft of merit and the same is liable to be dismissed accordingly.

That the petitioners have superannuated from the post of Officers of the level of Additional Superintending Engineer and Chief Engineer, consequently, it is deemed that they are aware of the Rules, Regulations, Instructions etc. governing their conditions of service. It was incumbent upon the petitioners to have themselves realized that the claim raised through the present petition are without any substance especially in view of Notification dated 21.07.1998 copy of which is annexed as ANNEXURE R-1. When the petitioners had visited the office of the Corporation, they were satisfied at that particular moment that in view of the amendment in the Notification regarding the provisions and table referred to in Rule 11.5 (2) of the said Rules, that their claim was not tenable. But now again they are raising their claim for restoration of the pension on the basis of the letters dated 04.09.2001(P-1) and 28.11.2001(P-3), which cannot sustain in view of the amendment in the Rules regarding the commutation of pension.

The relevant extract of the Notification dated 21.07.1998 is reproduced below:-

"I am directed to invite a reference to the subject cited above to para 8.1 of letter No. 1/798-1FP/III/8709, dated 16.7.1998 and to say that after careful consideration of the recommendations of the Fourth Pay Commission in respect of pensionary benefits to the pensioners and family pensioners, the Governor of Punjab is pleased to decide that employees retiring on or after 1.1.1996, will now be permitted to commute pension equivalent to 40% of their basic pension. Commuted portion of pension shall

be eligible for restoration after 15 years from the actual date of commutation.

2.The provision of Chapter 11 of Punjab Civil Services Rules, Volume II shall be deemed to have been amended to the extent as stated above and necessary notification shall be issued in due course. Other provision and the Table referred to in Rule 11.5(2) of the said rules shall, however, remain unchanged".

In view of the above, the writ petition is liable to be dismissed".

Counsel for the respondents has further taken an objection that once there is no challenge to the instructions of Government of Punjab as well as to the order passed by the Board adopting the instructions dated 21.07.1998 on 04.09.1998 (Annexure R/3) by the respondents-Corporation, no grievance can be made by the petitioners as according to the said instructions as well as the decision of the Board, the restoration of commuted pension can only be done after 15 years of grant of commutation of pension, and, therefore, in the absence of any challenge to the instructions of the Government of Punjab and the decision of the Board to adopt the same, no grievance can be made by the petitioners.

I have heard learned counsel for the parties and gone through the record. Once the instructions have been issued by Government of Punjab on 21.07.1998, according to which employees retiring after 01.01.1996, will get restoration of their full pension after 15 years, and the same instructions were duly adopted by the Board on 04.09.1998, no grievance can be made by the petitioners in this regard. Both the petitioners retired after the

adoption of the said instructions by the respondent-Corporation. Petitioners retired in the year 2001 and on the said date, according to the instructions issued by the Government of Punjab dated 21.07.1998 duly adopted by the Corporation on 04.09.1998 the commuted value of the pension will only be restored after 15 years.

In view of the above, the petitioners are not entitled for the restoration of commuted pension on attaining the age of 70 years as being admissible.

This Court is not commenting upon the validity of instructions, which have been issued by the Government of Punjab on 21.07.1998 which were adopted by respondent-Corporation on 04.09.1998 as there is no challenge to the instructions. Once there is no challenge to their instructions, the petitioners have to be governed by the instructions which were applicable when the petitioners retired in the year 2001. As per the regulations, which will govern their case on the date of their retirement, the commuted value of pension was to be restored after 15 years of service. Therefore, no fault is found in the order of respondent-Corporation rejecting the claim of the petitioner for resorting the full pension at the age of 70 years.

In view of the above, there is no merit in the present writ petition, the same is dismissed.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

**March 06, 2019**  
Poonam Sharma

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No