

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6595 of 2017

Date of Decision: 02.04.2019

Tejinder Jit Singh Rekhi

... Petitioner

VS.

Union of India & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Sameer Sachdeva, Advocate for the petitioner

Mr. Satish Singla, Advocate for respondent No.1

Mr. Ashwani Talwar, Advocate for respondents No.2&3

G.S. SANDHAWALIA, J. (Oral)

(1) The challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the order dated 01.02.2017 (P5) whereby the benefit of five years' service for pensionary benefits in terms of the statutory provisions were disallowed. The claim of the petitioner is that the petition stands covered by the decision in **CWP No.4071 of 2012 Manpreet Singh Anand & Ors. vs. Union of India & Ors.** decided on 06.01.2016 (P2) and other connected matters which have been upheld upto the Supreme Court. Thus the pensionary benefits payable to the petitioner are claimed by granting the benefit of Rule 30(5) of the General Insurance (Employees') Pension Scheme, 1995 summarised in short terms.

(2) This Court in **Manpreet Singh Anand's** case had allowed the benefit on the strength of the observations made by the Bombay High Court (Nagpur Bench) in CWP No.4131 of 2010 decided on 14 and 17 June 2013. It was also noticed by learned Single Judge that the decision of the Nagpur Bench had been upheld by the Apex Court on 01.09.2014.

(3) The respondent filed LPA against the decision of the two writ petitions bearing LPA Nos.1279 & 1280 of 2016 which were dismissed on 23.07.2016 (P3) which was further tested before the Apex Court unsuccessfully on 21.10.2016 in SLP (C) No.30041/2016 (P3A).

(4) Bolstered by the said decision, the petitioner filed CWP No.25176 of 2016 (P4) before this Court whereby directions were issued to decide the legal notice which led to passing of the impugned order dated 01.02.2017 (P5).

(5) In reply also, the plea taken is that since the request for voluntary retirement was accepted under the Special Voluntary Retirement Scheme 2003 which is a complete package in itself, the optees of such Scheme were entitled only to the incentives/benefits as mentioned in the Scheme. Since there was no provision for grant of benefit of notional service of 5 years by releasing the retiral benefits, the petitioner was not entitled to the same.

(6) The petitioner's case as such for the five years' notional benefits is on account of 28 years 10 months ranging from the period of 01.06.1979 to 11.04.2008 and on account of the fact that the benefit was payable under the 1995 Scheme under Rule 30(5) of the Rules *ibid* which had not been specifically excluded in the VRS, then the same would become payable.

(7) Counsel for respondents No.2&3/Insurance company could not deny the fact that in **National Insurance Co.Ltd. & Anr. vs. Kirpal Singh, (2014) 1 SCALE 320**, it has been held that any provision for payment of pension is beneficial in nature. The same ought to receive a liberal interpretation so as to serve the object underlying not only of the pension

scheme 1995 but also any special scheme under which employees have been given the option to seek voluntary retirement. Resultantly, the appeal filed by the Insurance Company in that case had been rejected.

(8) It further could not be disputed that the matter had been sought to be re-opened before the Apex Court in **Civil Appeal No.2463/2015 Assistant General Manager & Ors. vs. Radhey Shyam Pandey** on 20.02.2019 but reconsideration of **Kirpal Singh** was denied.

(9) Keeping in view the above factor, the order dated 01.02.2017 is accordingly quashed. Petitioner will be entitled for the said benefit along with 7% interest as granted in **Manpreet Singh Anand's** case (supra). The needful be done within 2 months from the date of receipt of certified copy of this order.

02.04.2019

vvishal

(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No