

CWP-6162-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6162-2016

Date of Decision: 29th January, 2020

Swaran Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. H.K. Brinda, Advocate,
for the petitioners.

Mr. Charanpreet Singh, Asstt. A.G., Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court praying for quashing of the order dated 18.12.2015 (Annexure P-7) passed by the Divisional Forest Officer, Rupnagar Forest Division, Rupnagar, vide which the representation of the petitioners for allotment of General Provident Fund Account numbers instead of Permanent Retirement Account numbers has been rejected.

It is the contention of the learned counsel for the petitioners that the petitioners were appointed on daily wage basis in the year 1987. They continued in service till their services have been regularized in the year 2011. On regularization of their services, petitioners have been granted/issued Permanent Retirement Account numbers under the New Re-structured Defined Contribution Pension Scheme, which was issued vide notification dated 12.12.2006. Counsel for the petitioners contends that the petitioners are entitled to be considered for grant of the General Provident

Fund Account numbers as they had come into service much prior to the coming into force the New Re-structured Defined Contribution Pension Scheme, 2006. Assertion has also been made that the claim of the petitioners is covered in their favour by the judgment of the Division Bench of this Court in **Harbans Lal Vs. The State of Punjab & others** (2012 (3) S.C.T. 362), wherein it has been held that even if the appointment of an employee is on daily wage or work charge basis and has not been regularized prior to 01.01.2004, he shall be covered by the General Provident Fund Scheme and not by the New Re-structured Defined Contribution Pension Scheme, 2006. Special Leave Petition preferred by the State of Punjab against the said judgment has also been dismissed by the Hon'ble Supreme Court vide order dated 30.07.2012. He, therefore, contends that the impugned order dated 18.12.2015 (Annexure P-7) cannot sustain and deserves to be set aside.

Learned counsel for the State, on the other hand, asserts that the petitioners cannot be granted the benefit as they have claimed in the present writ petition in the light of the fact that their services have been regularized in the year 2011, by which date the New Re-structured Defined Contribution Pension Scheme had come into effect. With the new pension scheme coming into force, petitioners are covered by the said scheme and therefore, have rightly been allotted Permanent Retirement Account numbers. Supporting the impugned order dated 18.12.2015 (Annexure P-7), counsel for the State contends that the same being based upon the pension scheme, which would be applicable to the petitioners at the relevant time when their services were regularized, their claim has rightly been rejected.

I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the pleadings which are not in dispute as far as the factual aspects are concerned as also the judgment passed by this court in *Harbans Lal's* case (supra).

This Court is of the considered view that the claim of the petitioners is covered by the Division Bench judgment of this Court in *Harbans Lal's* case (supra), where it has been held that the irrespective of the nature of the appointment of an employee i.e. either daily wage or work charge basis, if they had come into service prior to 01.01.2004, they shall be governed by the General Provident Fund Scheme and not by the New Re-structured Defined Contribution Pension Scheme on regularization. The said judgment having been upheld upto the Hon'ble Supreme Court, the ground which has been taken by the respondents for rejecting the claim of the petitioners cannot sustain.

In view of the above the present writ petition is allowed and the impugned order dated 18.12.2015 (Annexure P-7) is hereby set aside. Directions are issued to the respondents to accept the claim of the petitioners and issue them the General Provident Fund Account numbers within a period of six weeks from today.

(AUGUSTINE GEORGE MASIH)
JUDGE

29th January, 2020
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No