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

**CWP-8397-2017
Date of decision: 25.02.2020**

Mohinder Singh

.....Petitioner

V/S

Punjab State Warehousing Corporation and another

.....Respondents

Present: Mr. J.P. Rana, Advocate
for the petitioner

Mr. Vikas Singh, Advocate
for respondents.

HARSIMRAN SINGH SETHI, J. Oral

In the present writ petition, the grievance of the petitioner is that he is being denied the pension under the pension and gratuity scheme formulated by the Punjab State Warehousing Corporation (hereinafter referred as “respondent-Corporation”) only on the ground that the option form which the petitioner had submitted with the respondents, was not signed by him.

The facts stated in the present writ petition are that the petitioner joined the services with the Punjab State Warehousing Corporation as a helper i.e. Class IV post on 15.02.1997 and after rendering 37 years of service on the said post, the petitioner retired on attaining the age of superannuation on 31.10.2013.

While the petitioner was in service, respondent-Corporation

formulated a pension and gratuity scheme for its employees vide notification dated 29.03.1996. As per the terms and conditions of the scheme, the employees who were already in service on the said date, were to opt for the said scheme.

In the case of the petitioner, the petitioner opted for the said pension scheme and the claim of the petitioner along with the other helpers, who were also working on a class IV post, were forwarded by the Manager of the warehouse so where the petitioner was posted to the District Manager of the Corporation. The option form filled up by the petitioner was also sent along with the said letter. Thereafter, nothing was heard by the petitioner till he retired on attaining the age of superannuation. After the petitioner attained the age of superannuation on 31.10.2013, petitioner requested for the grant of pension and other benefits under the pension and gratuity scheme notified on 29.03.1996. At the said given point of time, petitioner was informed that as his option form, though filled, was not signed by him, hence, he cannot claim the benefit of the pension scheme of 1996 and the petitioner will be governed by the Contributory Provident Fund Scheme only. Petitioner was released the benefit for which he was entitled for under the Contributory Provident Fund Scheme.

Petitioner has approached this Court by way of present writ petition with a prayer that direction be issued to the respondent to consider the claim of the petitioner under the pension and gratuity scheme formulated by the Corporation vide notification dated 29.03.1996 and grant the pensionary benefit and gratuity under the said scheme along with the arrears.

Upon notice of motion, the respondents have filed the reply in the reply, the respondents have stated that the petitioner has already received the retiral benefits under the Contributory Provident Fund Scheme and, therefore, he is estopped from claiming the pension under the pension scheme formulated by the respondent-corporation in the year 1996. It has been further stated by the respondents that the petitioner submitted an option form but the same was not signed by him and, therefore, the petitioner cannot be granted the said benefit under the Pension Scheme of 1996. The relevant paragraph of the reply of the respondents is as under:-

“That para 4 of the writ petition is wrong and denied. It is correct that the employees were called upon to submit options, but the form of option sent by the petitioner did not bear his signatures.”

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

It is an admitted fact that the petitioner was working on a Class-IV post at the time when the scheme was formulated by the respondents in the year 1996. It is further admitted by the respondents that the petitioner did exercise his option in favour of the pension scheme though, the option form was not signed by the petitioner. Once, the petitioner had opted for the scheme, it was incumbent upon the respondents to consider the claim of the petitioner under the pension scheme formulated by the respondents in the year 1996. In view of the undisputed above mentioned facts, the petitioner cannot be denied the benefits of pension scheme of 1996.

Even if the option form was not signed by the petitioner, respondent could have got the said inadvertent mistake rectified from the petitioner during the period he remained in service. No such objection was ever taken by the respondents that as the option form of the petitioner was not signed by him, hence, same option was rejected. No order has been produced wherein, the respondents have declared petitioner ineligible for the grant of benefit under the pension scheme of 1996 by rejecting the option form submitted by the petitioner. That being so, once the option form remained with the respondents though it might not have been signed by the petitioner, but as the said form included the data of the petitioner, the said option was enough for considering the petitioner's option to be dealt with by the respondents under the pension scheme issued in the year 1996.

Further, the petitioner is a Class-IV employee and it is not expected of the Class-IV employee to complete the formalities of an option form which is submitted in English. The option form include the data of the petitioner as well as his name and designation. Non signing of the option form, especially in the case of a Class-IV, employee cannot be treated in such a manner to disqualify him from getting a benefit especially when the respondents have admitted that “incomplete” option form was submitted by the petitioner within the time frame. The said irregularity was capable of being corrected at any given point of time before the petitioner retired or even after the petitioner retired. That being so, the rejection of the claim by the respondents for granting the petitioner, the benefit under the pension

set aside. Petitioner is held entitled for the benefit under the pension scheme of 1996.

Learned counsel for the petitioner states that petitioner is ready to refund the amount which he had received on his retirement under CPF scheme along with 9% interest. Let the respondent calculate the benefits under the 1996 pension scheme for which the petitioner becomes entitled for under this order as well as the amount which is to be returned by the petitioner under the CPF along with 9% interest will be deducted by the respondent at the time of making the payment to the petitioner.

Let the order be complied within a period of two months from the receipt of certified copy of this order.

Respondent will deduct the amount which the petitioner is required to deposit as undertaken and will release the remaining arrears to the petitioner, for which he becomes entitled for under this order.

February 25, 2020
pry

(HARSIMRAN SINGH SETHI)
JUDGE

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