

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

CWP No.15172 of 2008 (O&M)

Date of decision: 17th December, 2021

Raghubir Singh

... Petitioner

Versus

Guru Nanak Dev University & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Brijesh, Advocate for the petitioner.

Mr. Amrit Paul, Advocate for the respondents.

FATEH DEEP SINGH, J.

The petitioner irrefutably initially joined Guru Nanak Dev University (in short, 'the University) as a Clerk on 19.06.1973 and thereafter because of his educational qualifications, was taken in the Department of History on 01.10.1975 as Research Assistant. It is upon completion of his Ph.D. degree in 1993 because of an order of this Court passed in a civil writ petition on 06.11.1995 the petitioner and others were designated as Lecturers with effect from 01.01.1973. It is thereafter on 17.02.2004 the petitioner was promoted as Reader with effect from October 1987. The petitioner admittedly had been carrying on his duties as such and upon completion of 60 years of service, stood retired on 01.02.2007 but was allowed to continue as Reader till 30.06.2007. The instant invocation by way of civil writ petition under Articles 226/227 of the Constitution of India has been filed by the petitioner seeking release

of his benefits comprising of the ones detailed in para No.17 of this petition which may be read as such and need not be reproduced here.

During the course of pendency of the petition, the petitioner had limited his prayer to the grant of pension with effect from the date of his retirement and fixation of his pay in accordance with fifth pay commission which came into force with effect from 01.01.2006.

The stand of the respondent-University was that of admission qua the appointment to various posts of the petitioner and as to the fact of his retirement. Qua the plea of non-payment of pension so alleged by the petitioner, the respondent University had detailed that it was on account of the own intentional act of the petitioner in not returning the library books and not obtaining "No Dues Certificate", he could not get his complete dues. It is claimed that the University sent letter dated 19.05.2008 (Annexure R7) asking the petitioner to submit his no-dues followed by another letter dated 29.05.2008 (Annexure R8) and thereafter having not opted for his pension, Establishment Branch of the University sent office note dated 06.06.2008 (Annexure R9) that he has failed to exercise his option for pension and the petitioner was informed to submit his documents to enable the respondent University to process his claim. Again another letter dated 10.06.2008 (Annexure R10) was sent regarding no-due certificate as the same was coming in the way of release of retrial benefits to the petitioner. When the petitioner failed to comply with the same, the Library Head of the respondent sent letter dated 20.06.2008 (Annexure R11) asking the petitioner to return 42 books of

the History Department which at that time were valued at ₹ 16,969/- and which value was supposed to be recovered from him. The respondents' plea that since at the relevant point of time employees of the University were governed under CPF Scheme and were supposed to make an option through '*opt for pension scheme*' by the cut-off date, the petitioner having not done so was disentitled from claiming the same. The amounts sent to him have never been acknowledged by the petitioner and had given the details of the amounts so sent to the petitioner as follows:-

Sr.No.	Cheque No.	Dated	Amount	Payment on account of
1.	No.572437	13-4-2010	₹ 3,32,836/-	Gratuity of ₹ 3,50,000/- [minus cost of unreturned library books: ₹ 17,164/-]

[In lieu of:

- (1) old lapsed cheque No.555170 dated 8-9-2009; and
- (2) previous returned cheque No.848349 dated 8-1-2009]

2.	No.572438	13-4-2010	₹ 2,95,229/-	Leave Encashment for 239 days
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[In lieu of:

- (1) old lapsed cheque No.555171 dated 8-9-2009; and
- (2) previous returned cheque No.848923 dated 19.1.2009]

3.	No.572439	13-4-2010	₹ 1,08,704/-	Furlough Leave Encashment for 180 days.
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[In lieu of:

- (1) old lapsed cheque No.555172 dated 8-9-2009; and
- (2) previous returned cheque No.848924 dated 19-1-2009]

4.	No.549059	15-4-2010	₹ 8,48,436/-	C.P.F. balance amount
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[In lieu of:

- (1) old lapsed cheque No.880415 dated 8-9-2009; and
- (2) previous returned cheque No.879666 dated 20-1-2009]

The total of these amounts comes to ₹ 15,85,205/-.

It is contended that after letter dated 01.04.2003 (Annexure P15) was sent to all the heads of teaching and non-teaching departments and branches, the Syndicate has resolved that any employee who fails to give option for the pension scheme had been given the last opportunity upto 30.04.2003 and since the petitioner failed to do so disentitles him to pension and is only entitled to have his CPF which he has received. Terming the petition to be false and figment of lies, sought its dismissal.

Upon hearing Mr. Brijesh, Advocate representing the petitioner; Mr. Amrit Paul, Advocate for the respondents and perusal of the records.

The lone contention that remains to be resolved in the light of submissions of the two sides is over the entitlement of pension to the petitioner. The cut-off date in view of last letter (Annexure P15) was 30.04.2003 and whereby last opportunity had been given to the employees to exercise their option. No doubt, entitlement to pension scheme was available if one exercises his option and not otherwise. The last cut-off date for the employees of the University to give option in respect of entitlement to pension was 30.04.2003 and which was a last opportunity as per the letter (Annexure P15). To the specific query of the Court, learned counsel for the petitioner could not show any such document whereby the petitioner has exercised his option to this effect and even letter dated 19.05.2008 (Annexure R7) had not been shown to have been responded to by the petitioner.

The petitioner had voluntarily received his dues through various cheques issued by the department by way of gratuity, leave encashment and CPF balance amount which was as per the Pension Statutes of the University Calendar termed as '*The Guru Nanak Dev University Provident Fund*', and did not agitate to show his protest to this amount. Since it was with much hesitancy the petitioner had managed to submit his No Dues Certificate and it was thereafter, his claim for payment of retiral benefits could subsist and rather than acceding to the repeated requests of the authorities, what this Court can decipher, the petitioner has been trying to act headstrong and instead of making request to the University authorities is trying to enter into a confrontation with them. The petitioner has failed to exercise his option within the stipulated time and date and which was available to all those employees who failed earlier to avail of it. There is no document brought to the notice of the Court to this effect. So the petitioner must fail for his own act. This Court does not feel that there is any merit in the instant writ petition. The same being hopelessly without any subsisting cause of action deserves to be dismissed. Ordered accordingly.

(FATEH DEEP SINGH)
JUDGE

December 17, 2021

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No