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

LPA No.369 of 2022 (O&M)
Date of Decision: 10.05.2022

Surinder Pal Singh-I

......Appellant

Versus

Pepsu Road Transport Corporation, Patiala and another

......Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present : Mr. Abhivadya Sood, Advocate, for the appellant.

ARUN PALLI, J.

This is an *intra Court* appeal, under Clause X of the Letters Patent, against an order and judgment dated 06.10.2021, rendered by the learned Single Judge, vide which, the writ petition preferred by the appellant, directing the respondents to release his pension and all other pensionary benefits in terms of the PEPSU Road Transport Corporation Employees Pension/Gratuity and General Provident Fund Regulations, 1992, has since been dismissed.

The appellant joined the PEPSU Road Transport Corporation, Patiala (for short 'the Corporation') as Clerk on 06.03.1972. He was promoted as Senior Assistant in November 2001. He retired from service on 30.11.2010, on attaining the age of superannuation. To grant retiral benefits to its employees, the respondent-Corporation, in exercise of the powers under Section 45 of the Road Transport Corporations Act, 1950, (for short 'the Act') enacted PEPSU Road Transport Corporation Employees Pension/Gratuity & General Provident Fund Regulations,

1992. The said Regulations came into force on 15.06.1992. In context of the limited issues that arise for consideration, it would be expedient to refer to certain clauses of the Regulations:

Clause-3

"3. Application:

(1) These regulations shall apply to the employees of the PEPSU Road Transport Corporation who:

(i) were/are appointed on or after the date of issue of Regulations on whole time and regular basis; and

(ii) were working immediately before the date of issue of Regulations and opt for these regulations.

(2) These regulations shall not apply to the employee, who:

xxx xxx xxx xxx xxx

(h) opt for the P.R.T.C. Employees Pension/Gratuity and General Provident Fund Regulations, 1992, but failed to refund the amount of advance taken out of the Employer's share of the Contributory Provident Fund alongwith interest thereon within the stipulated period."

Clause-4

"4. Exercise of option: The option under clause (ii) of the sub rule (1) of Regulation 3 Shall be exercised in duplicate in writing in Form 1 so as to reach the Managing Director as forwarded by General Manager in case of depots and Administrative Officer in the case of Headquarter with his counter signatures within a period of six months from the date of issue of these Regulations.

Provided that:

xxx xxx xxx xxx xxx

(iii) An option once exercised shall be final provided the concerned employee deposit the Corporation's share of C.P.

fund received by him/taken in advance, if any, within a period of six months from the date of issue of Regulations and if a person fails to exercise his option under the said regulations within the specified period referred to above, it shall be deemed that he has to continue for the existing Contributory Provident Fund benefit."

A bare analysis of the clauses, referred to above, reveals that those employees who were already in the employment of the Corporation, when these regulations came into being, and were desirous of availing the benefit thereunder, they were required to opt for the said regulations in writing within the stipulated period. Further, even though an employee opted for these regulations but failed to refund the amount of advance, taken from the employer's share of Contributory Provident Fund with interest, within the specified time, the said regulations would neither enure to his advantage nor shall be applicable. Still further, the option exercised once shall be final, provided the employee concerned deposits the employer's share of Contributory Provident Fund, failing which, it would be deemed that he has continued with the existing Contributory Provident Fund benefits.

We have heard learned counsel for the appellant and perused the records.

Concededly, the appellant had opted for the pension scheme under the Regulations. But, he failed to deposit the advance, in terms of Regulation 3(2)(h), Chapter-XI of the Regulations, amounting to Rs.9,000/-, taken by him, out of the employer's share, within the prescribed time, along with interest. The records show that the amount that was required to be deposited along with the interest up to 31.12.1992, was

Rs.17,033/-. Whereas, the appellant had only deposited Rs.14,877/- in his Contributory Provident Fund account. As would be expedient to point out: with a purpose and intent to extend the benefit of these regulations to those who had failed to exercise the option or whose options were rejected, owing to late submissions/non-clearance of advances etc., vide letter dated 29.03.1993 (Annexure P-3), the period to opt for the pension scheme under the Regulations was extended for a further period of one month. However, as concluded by learned Single Judge, for the appellant failed to comply with the mandatory provisions of the Regulations, he was not entitled to claim the pensionary benefits under the Regulations. The plea that he was oblivious or did not come to know of the instructions dated 29.03.1993 ***(ibid)***, extending the period to enable the employees to submit their options or for clearance of advances etc., is erroneous, since the positive case set out by the appellant is that he had opted for the pension scheme under the Regulations. Further, the said instructions were notified to every depot of the Corporation and number of employees had benefited therefrom. Likewise, the argument that he was entitled to pension, for not only he had submitted his option in sync with the Regulations, but a deduction of Rs.200/-, for the months of March and April, 1993, was caused by the Corporation from his salary, on account of G.P. Fund, would not advance his case either. For, the Corporation had duly clarified that it was owing to a clerical mistake, the said amount was deducted from his salary, which was immediately rectified as he had failed to clear the advance, taken by him from the employer's share, within the stipulated period.

As is made out from the records, the matter was directly and substantially in issue before the Supreme Court in **P.R.T.C. Vs. Mangal Singh & Ors., 2011 (11) SCC 702,** and other connected appeals. And upon a detailed analysis and interpretation of the relevant clauses of the Regulations, it was concluded that failure on the part of the employees to opt for pension scheme and refund the advance taken from the employer's contribution of CPF would disentitle them for claiming any benefit under the pension scheme:-

> ***"41) The Regulation 4 (iii) of the Regulations is a deeming provision to the effect: firstly, if an employee fails to exercise his option within a period of 6 months from the date of issue of these Regulations and; secondly, even on exercise of option, if an employee fails to refund the amount of advance taken from employers contribution of the C.P.F. within 6 months from the date of issue of these Regulations, then it shall be deemed that employee has opted to continue for the existing C.P.F. benefit. Therefore, the failure on the part of the respondents to opt for the Pension Scheme and refund the advance taken from the employer's contribution of C.P.F. will disentitle them from claiming any benefit under the Pension Scheme. Therefore, we cannot sustain the judgment and order passed by the High Court."***

Learned Single Judge has also placed reliance upon a subsequent decision rendered by the Supreme Court in **PEPSU Road Transport Corporation, Patiala Vs. Amandeep Singh and others, 2017(1) SCT 432**, wherein the earlier view in **Mangal Singh and others (supra)** was reiterated.

Not just that, the appellant, who retired from service over a decade ago on 30.11.2010, has already received the retiral benefits under the C.P.F. scheme. The stand set out by the Corporation is that the entire amount of C.P.F., amounting to Rs.3,34,175/-, was received by the appellant, which included the share of the Corporation, which would have become a part of the pension fund, created under Regulations 21 and 22 of the Regulations. And from which the pension would have been afforded to him, had his option not been rejected or had he been the member of the pension scheme. He has also received gratuity, amounting to Rs.3,50,000/-. Thus, having received all the requisite dues, including the share of the Corporation, the appellant could hardly raise a grievance with regard to pension.

In the wake of the position, sketched out above, the only and the inevitable conclusion that could be reached is that though, the appellant opted for pension scheme under the Regulations, but he failed to deposit the requisite amount within the specified period or even during the extended period till 29.04.1993.

That being so, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

10.05.2022
Manoj Bhutani

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