

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

CWP No. 6307 of 1995
Date of decision: 27.05.2022

R.P. Singh, General Manager (Retired), Haryana Industries Department
....Petitioner(s)

Versus

State of Haryana and others
....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS BAHL
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Mansur Ali, Advocate,
for the petitioner.

Mr. R.D. Sharma, DAG, Haryana,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The present writ petition, at the time of admission on 07.09.1995, was ordered by the Division Bench to be heard by the Full Bench alongwith CWP No.16709 of 1994 'M.L. Gupta and others Vs. State of Haryana and others'.

A perusal of the file of the said case would go on to show that challenge was to the letter dated 03.11.1988 wherein the enhanced amount of death-cum-gratuity was subject matter of issue and the claim was of the uniformity in the ceiling of Rs.50,000/- of the maximum amount of gratuity irrespective of the date of retirement. The relief claimed herein also is similar in nature wherein challenge was raised to Annexure P-1, which is

also the letter dated 03.11.1988. The prayer clause reads thus:-

- “(i) Withdrawing the ban on payment of arrears of Death-cum-Retirement Gratuity vide para D (i) of Annexure P-1.
- (ii) Maintaining uniformity in the ceiling of Rs.50,000/- of the maximum amount of gratuity irrespective of the date of retirement (which ceiling limit of Death-cum-Retirement Gratuity has been further enhanced from Rs.50,000/- to Rs.1.00 lac vide F.D. Circular letter No.1/4/93-89-2FR.II dated 2.5.90).
- (iii) paying the arrears of pensionary benefits, in cash, instead of long term deposits to the petitioner who has already retired (as already allowed to similarly situated retired employees of Haryana Industries Department in CWP. No.4259 of 1989 -M.L. Choda & others Vs. State of Haryana and others decided on 28.7.93)'

The Division Bench in *M.L. Gupta's case (supra)* had on 03.04.1995 passed the same order, as passed in CWP No. 8828 of 1994, *Bhagat Singh vs. State of Punjab*. A perusal of the paper book of CWP No. 8828 of 1994 would go on to show that the dispute was regarding enhanced pensionary benefits and challenge was to the letter dated 09.07.1985 issued by the State of Punjab. In *Bhagat Singh's* case on 03.05.1995, the matter was directed to be listed before the Court after the decision of the Full Bench constituted on account of a reference made on 08.01.1993 in CWP No. 5986 of 1992, *Rikhi Ram Sharma vs. State of Punjab and others*, which stands decided on 16.09.1996.

We have also gone through the file of CWP No. 5986 of 1992 wherein, the matter had been referred to the Full Bench on the conflict on account of the view taken by the Division Bench in LPA No. 1352 of 1989

State of Haryana and another, 1992 (1) ILR (Punjab & Haryana) 454. The said issue was regarding the grant of benefit of pension scheme to one group of retirees who had retired from the privately managed recognized aided schools and the benefits given as per the cut off date of 05.02.1987 was the subject matter of consideration. The Full Bench eventually held that on account of a valid consideration, the date was fixed and the newly introduced pension scheme was made applicable and it could not be held violative of the law laid down in ***All India Reserved Bank Retired Officers Association and others vs. Union of India and another, 1991 (6) JT SC 400.***

M.L. Gupta's case (supra) was decided on 29.09.1997 in terms of CWP No. 16439 of 1997 decided on 18.09.1997. We have perused the records of CWP No. 16439 of 1997, which is apparently not connected as such with the case and it is titled as Jodh Singh vs. Superintending Canal Officer, Sirhind and others. The dispute was regarding a water course under the Northern India Canal and Drainage Act, 1873, which applied to the State of Punjab. Rather the correct number should have been CWP No. 16439 of 1993. Thus, the year was wrongly mentioned as 1997 and it should have been of 1993. Similarly, CWP No. 8828 of 1994, Bhagat Singh etc. vs. State of Punjab was also disposed of in terms of CWP No. 16439 of 1993.

A perusal of the judgment passed in Kartar Singh's case (*supra*) would go on to show that the Division Bench had decided the said case in terms of the judgment passed in CWP No. 14763 of 1990 titled as Dr. Asa Singh vs. State of Punjab, which had been decided on 22.04.1991. The learned Single Judge had decided Dr. Asa Singh's case in terms of CWP No.

6863 of 1986, Shamsher Singh and others vs. State of Punjab on 18.04.1988.

The writ petition of Bhagat Singh also pertains to the State of Punjab in which circular dated 09.07.1985 is the subject matter of challenge. It is apparent that Dr. M.L. Gupta's case got tagged alongwith the wrong bunch, which is pertaining to the State of Punjab and similarly, the present case also was ordered to be heard alongwith the said case wherein a similar relief as such had been prayed for.

Thus, apparently there is no reference order before this Court or anything to show that there was divergence of opinion between the two Division Benches which might require consideration by the Full Bench.

Counsel for the State also is not in a position to assist that as to whether the dispute raised herein regarding the communication dated 03.11.1988 was ever a subject matter of consideration to be placed before a Full Bench. On an earlier occasion on 07.02.2020, in the present case, the following order had been passed:-

“Learned State Counsel states that the issue involved in the writ petition stands decided in favour of the State by the Hon'ble Supreme Court in judgment rendered in cases (i) State of Punjab and others Versus Boota Singh, 2000 (3) SCC 733, and (ii) State of Punjab Versus J.L. Gupta, 2000 (3) SCC 736, he, however, is unable to produce the judgment passed in CWP No. 6863 of 1986, titled “Shamsher Singh and others Versus The State of Punjab and another”, decided on 18.04.1988, which forms the basis of the sequence of judgments relied upon by the petitioner, therefore, prays for adjournment.

List on 12.03.2020 for further consideration.

The case file of CWP No. 16709 of 1994, decided on 29.09.1997, be attached.”

We have gone through the judgments referred to in the above said order, which would go on to show that they are all pertaining to the notification of the State of Punjab dated 09.07.1985. None had put in appearance on an earlier date on 07.02.2020. Today, Mr. Mansoor Ali, Advocate has put in appearance and now submits that he has no instructions and the file was taken by the petitioner.

In the said circumstances, we have no option but to dismiss the writ petition for want of prosecution and in the absence of any reference which has to be answered. It is, however, made clear that in case the writ petition is to be restored to be decided on merits, liberty is granted to file an appropriate application to be listed before the Division Bench in the peculiar facts and circumstances as nothing survives for consideration to be decided by us in the absence of any reference order.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS BAHL)
JUDGE

27.05.2022
shivani

(VIKAS SURI)
JUDGE

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