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

**108** **CWP-10102-2022**

**Date of decision : 19.05.2022**

Ranjeet Singh and others

....Petitioners

V/s

State of Haryana and another

....Respondents

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

Present: Mr. Anurag Goyal, Advocate for the petitioners.

**G.S. SANDHAWALIA, J. (ORAL)**

The challenge in the present petition is to the notification dated 28.10.2005 (Annexure P-16) whereby amendment was made in the Punjab Civil Services Rules Vol-1, Part-1 (Haryana Amendment Rules, 2006) in Rule 1.2, which provided that after 01.01.2006, the Government employees to be appointed on the posts mentioned in categories (1) to (5) would be covered by the 'New Defined Contribution Pension Scheme', which was to be notified by the Government. Similarly, notification dated 18.08.2008 (Annexure P-17) which came into force w.e.f. 01.01.2006 and the circular dated 04.12.2008 (Annexure P-22), is being challenged on the ground that it was with retrospective effect and the same would not be applicable qua the employees appointed prior to 18.08.2008 i.e. the date when the new pension scheme 2008 was introduced for the first time vide the aforesaid notification.

Counsel has submitted that the process of implementation was challenged as it was with retrospective effect and it was kept in abeyance at a particular point of time vide circular dated 10.10.2008 (Annexure P-21) and therefore, the challenge has been raised.

We are of the considered opinion that the petitioners are bound by the principle of estoppel and cannot at this belated stage, challenge the said scheme.

The petitioners were appointed in pursuance of the selection process vide advertisement dated 10.08.2005 (Annexure P-1). Their appointment letters were eventually issued on 07.07.2006 (Annexure P-6). Clause 13 of the said appointment letter specifically provided that the petitioners were covered by the "New Defined Contribution Pension Scheme" as per the notification dated 28.10.2005, which is subject matter of challenge. If the terms and conditions were acceptable to the petitioners, the joining report was to be given to the Principal within 15 days.

It is not disputed that they have joined way back in the year 2006 and never at any point of time earlier raised any dispute qua the said terms and conditions. They had rather grabbed the appointment with open hands and now cannot turn around and say that the said clause incorporated in the appointment letter, is bad. The principle of estoppel comes into play immediately and the writ petition is barred by delay and laches, is another aspect. It is a matter of fact that such policies have huge financial impact and petitioners being aware that the government was changing the methodology of pension, had opted and accepted the same. The latest scheme which was circulated on 04.12.2008 provided revised guidelines for implementation of Defined Contributory Pension Scheme. The deduction towards New Pension Scheme had to start from the month following the month of joining service. No deduction was to be made towards General

Provident Fund contribution from the Government servants joining the service on or after 1st January, 2006. The relevant portion of the said scheme reads as under:-

> "5. No deduction shall be made towards General Provident Fund contribution from the Government servants joining the service on or after 1st January, 2006, as the General Provident Fund Scheme is not applicable to them.
>
> 6. The deductions towards new Pension Scheme will start from the month following the month of joining service. No deductions will be made for the month in which employee joints service.
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> 8. The existing provisions of defined benefit pension and GPF would not be available to the Government servants joining service on or after 1.1.2006.
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> 10. The funds of New Pension Scheme will be invested by the Pension Fund Managers as per investment Scheme opted by the subscribers. However for the time being the funds will be invested in the default Scheme in the following proportion."

A period of more than 14 years is gone since the same was in force and the petitioners, thus, have contributed towards the said scheme for the last almost 14 years. For petitioners at this stage to raise the issue at such a belated stage and for this Court to consider and call upon the State to justify would be totally uncalled for.

In similar circumstances, in CWP-13272-2021 titled as *Pardeep Kumar vs. State of Haryana and others,* decided on 05.08.2021, another set of employees had also challenged the said condition where one of us (G.S. Sandhawalia, J) had dismissed the petition and passed the following order on 05.08.2021:-

> The present civil writ petition has been filed under Article 226 of the Constitution of India, whereby the petitioners seek quashing of impugned condition in order dated 04.12.2008 (Annexure P-6), vide which defined contributory pension scheme was introduced by the

State of Haryana vide notification dated 18.08.2008 (Annexure P-4) and made applicable with retrospective effect from 01.01.2006.

It is not disputed that petitioners have joined services between 02.04.2007 and 28.02.2009 as per the Chart (Annexure P-3) against advertisement No.6 of 2006 dated 20.07.2006 (Annexure P-1). The cut off date fixed by the State as per Notification (Annexure P-4) is 01.01.2006. Since at that point of time, notification was already in force, therefore, the persons, who had joined prior to the date of 18.08.2008, have been contributing to the new pension scheme since then. Clause 20 of the said Notification reads as under:-

> "20. Heads of the Department/Heads of Offices shall get the permanent Pension Account Number from the Accountant General (Accounts and Entitlement) Haryana for all the new Government servants who have already joined the Government service on or after 1st January, 2006 within a month from the date of issue of this notification. New Government servants who join service shall be admitted to this scheme compulsorily by the Heads of the Department/Heads of Offices by promptly applying for allotment of the Permanent Pension Account Number to the Accountant General (Accounts and Entitlement) within a month from the date of joining of the service."

It is pertinent to notice that present writ petition has now been filed, challenging the said cut off date, after a period of more than a decade since the date of joining and contribute, thus the writ petition is also barred by the principle of delay and laches apart from the principle of estoppel.

In such circumstances, this Court does not deem it appropriate to exercise its extraordinary writ jurisdiction in the facts and circumstances and the present writ petition is, accordingly, dismissed in limine.

In another civil writ petition No.10592 of 2021 (Urmila Devi and others v. State of Haryana and others) decided on 28.06.2021, the same view was taken. It is a matter to be noticed with great concern that the employees of State of Haryana are raising belated claims and flooding this Court with untenable demands, which it is forced to handle and deal on daily basis. However, this Court refrains from imposing exemplary costs in the facts and circumstances of the case to the lowly placed employees."

The aforesaid order has also not been further challenged by the litigants in the said case.

In view of the above, we are thus, of the considered opinion that there seems to be no reason to take a different view. Accordingly, the writ petition is dismissed in limine.

**(G.S. SANDHAWALIA)**
**JUDGE**

**(VIKAS SURI)**
**JUDGE**

May 19, 2022
*Ajay*

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|---|---|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable: | Yes/No |