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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-13480-2020
Date of Decision: 22.03.2022

Ranjit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chandeep Singh, Advocate,
for the petitioner.

Mr. Kannan Malik, AAG, Punjab.

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HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed for the grant of retiral benefits to the petitioner which have been denied to him by the respondents, vide speaking order dated 22.01.2019 (Annexure P-19).

Learned counsel for the petitioner argues that in the present case, the petitioner was initially appointed as a *Safai Sewak* with respondent No.3-School in the year 1998 and he continued working on the said post till 07.11.2005, when his services were regularized, and thereafter he retired on 31.03.2017. Learned counsel further argues that though in the present petition, the only grievance raised on behalf of the petitioner is that his pensionary benefits were released after a delay, which will entitle him for the benefit of interest on the said delayed release of pensionary benefits, but keeping in view the facts and circumstances of this case, even the grant of pensionary benefits under the new Pension Scheme by the respondents is arbitrary, for the reason that the petitioner was working with the respondent No.3-School since 1998, and though his services were regularized in the year 2005, which is after commencement of new Contributory Provident Fund Scheme, but in view of the judgment of the Division Bench of this Court passed in **CWP-2371-2010** titled as ***"Harbans Lal Vs. State of Punjab and others"***, decided on 31.08.2010, the old Pension Scheme is to be made applicable upon him for computing his pensionary benefits.

Learned State counsel submits that as the claim raised on behalf of the petitioner in the present petition is only with regard to the grant of interest on the delayed release of pensionary benefits, and the prayer with regard to applicability of the old Pension Scheme has been raised by learned counsel for the petitioner today only during the arguments, there are no pleading to the effect that whether the petitioner is entitled for the benefit of the old Pension Scheme or not.

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

In paragraph No.3 of the reply filed on behalf of the respondents, they have themselves admitted that the petitioner was appointed on 12.10.1998 as a part-time Sweeper and his services were regularized on 07.11.2005. That being so, it cannot be said that the petitioner was not in service on 01.01.2004, on which date, the new Pension Scheme came into being. The question of law on this aspect has already attained finality in the judgment passed by the Division Bench of this Court in **Harbans Lal's case** (supra), wherein it has been held that where an employee was already working on a temporary basis or an *ad-hoc* basis as on 01.01.2004 and though his services were regularized after 01.01.2004, i.e. after the commencement of the new Contributory Provident Fund, still the said employee will be governed by the old Pension Scheme only. That being so, the case of the present petitioner is squarely covered by the aforementioned judgment for the grant of pensionary benefits under the old Pension Scheme.

Keeping in view the facts and circumstances of this case, though the above said prayer has been raised only during the arguments by learned counsel for the petitioner but as the same is covered by the settled principle of law laid down in **Harbans Lal's case** (supra) and the facts needed to adjudicate the said prayer are already on record and are conceded as well by the respondents in their reply, hence in view of the reply filed on behalf of the respondents, they are directed to re-consider the claim of the petitioner for the grant of pensionary benefits under the old Pension Scheme by applying the settled principle of law laid down in **Harbans Lal's case** (supra) and an appropriate speaking order be passed within a period of two months from the date of receipt of copy of this order. Further, the benefit of interest on the delayed payments, for which the petitioner is entitled for under the settled principle of law, be also considered while passing the speaking order, and the benefit for which the petitioner is found entitled for be released in his favour within a period of four weeks thereafter.

Petition is allowed in above terms.

22.03.2022 **(HARSIMRAN SINGH SETHI)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes

2. Whether reportable : Yes