

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

CWP No.15243 of 2018 (O&M)

Date of decision: 25th January, 2022

Surjit Singh

... Petitioner

Versus

Pepsu Road Transport Corporation

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vikas Chatrath, Advocate for the petitioner.

Mr. Anupam Singla, Advocate for the respondent.

FATEH DEEP SINGH, J.

Petitioner Surjit Singh who has come up in this petition under Articles 226/227 of the Constitution of India, was initially appointed as a daily-wager on 24.09.1976 and claims as per his petition was regularized with effect from 27.02.1978 and after working regularly stood superannuated on 31.12.2015. It is on the premise that the respondent Pepsu Road Transport Corporation (in short, 'PRTC') was governed by the Punjab Civil Services Rules and by virtue of Pepsu Road Transport Corporation Employees Pension/Gratuity & General Provident Fund Regulations, 1992 (in short, 'Regulations 1992' or 'the Regulations'), an option had to be exercised by the employee whether he wanted to be governed by the Regulations or continue with the Contributory Provident Fund (in short, 'CPF'). It is alleged that by virtue of the Regulations, a

cut-off date has been provided for exercise of option for regular pension or opting for CPF. It is claimed by the petitioner that he had opted for pension scheme but consequent upon his retirement he has been denied the same alleging that certain class of employees were given the benefit of pension scheme and certain class like him were denied the same. It is claimed that the act of the respondents in depriving the petitioner of his pensionary benefits was wholly illegal, arbitrary and discriminatory, against the provisions of Punjab Civil Services Rules and principles of natural justice as well as Articles 14 and 16 of the Constitution of India. In the end, the petitioner has sought pensionary benefits commensurate with his service so put-in in terms of Regulations 1992.

The respondents in their short reply denied the contentions of the petitioner alleging that under Clause 3 of the Regulations 1992, only those employees of the respondent Corporation shall be governed by these Regulations who were appointed on or after the date of issuance of Regulations on whole-time and regular basis or were working immediately before the date of issuance of the Regulations and opt for these Regulations. It was contended that by virtue of Clause 2(h), if any employee of the respondents who is covered under the Regulations, fails to refund the amount of advance taken out of the employer's share of CPF along with interest within the statutory period, these Regulations shall not apply in that case. It is further submitted that under Clause 4 of these Regulations, an employee is supposed to exercise his option by the

cut-off date within six months of the issuance of the Regulations. It is alleged that since case of the petitioner is not covered under the same, therefore he is not entitled to any relief as prayed for. Hence sought dismissal of the petition.

Heard Mr. Vikas Chatrath, Advocate for the petitioner; Mr. Anupam Singla, Advocate for the respondent and perused the records of the case.

The very arguments that have been sought to be projected by Mr. Anupam Singla, Advocate for the respondent are that the petitioner has not exercised the option for pension in terms of Regulations 1992 (Annexure P2). The petitioner Surjit Singh who at the time of his retirement was working as a helper/blacksmith with the respondents and does not in any manner displace that during his service he was member of CPF which the respondents have introduced through Pepsu Road Transport Corporation Employees Pension/Gratuity & General Provident Fund Regulations, 1992. However, as per the claim of the respondents, the petitioner has failed to opt for this pension scheme and till superannuation his name was not there in the list of members of financial benefits scheme for pension. To strengthen his arguments, learned counsel for the respondents has relied upon **‘Pepsu Road Transport Corporation and another vs. Mangal Singh & others’ 2011 AIR (SC) 1974** and **‘Sohan Lal & others vs. Pepsu Road Transport Corporation, Patiala and others’ 2019(4) SCT 763**.

To the specific arguments put forth by the respondents side that till 31.12.2015, the petitioner remained a member of CPF and his name finds mention in the list at entry No.172 and there is nothing substantial and cogent led on the record to show he has opted for the pension scheme; Mr. Vikas Chatrath, Advocate appearing on behalf of the petitioner could not show even an iota of evidence to drive home the point that the petitioner had opted for this pension scheme and even in the writings dated 28.08.2006 and 20.10.2016 it clearly finds mention that nowhere in the service record of the petitioner he has opted for the pension scheme. Admittedly, the Regulations became effective from 15.06.1992 and the petitioner upon whom the onus lay heavily has failed to establish prima-facie that he has opted for this pension scheme. The petitioner has retired on 31.12.2015 and till the filing of this petition, he did not raise any grievance in this regard. It is not displaced that upon his retirement, as has been contended by learned counsel for the respondent, the petitioner has received his retrial CPF benefits without protest, and therefore in view of the law laid down by the Apex Court in the case of 'Pepsu Road Transport Corporation Patiala vs. Amandeep Singh' reported in 2017(1) SCT 432, it was held that in such an eventuality, claimant cannot be allowed to have another benefit from the pension scheme which he never opted for. Learned counsel for the petitioner has sought to rely upon '**Ajmer Singh (Retd.) Inspector vs. Pepsu Road Transport Corporation and others**' (LPA No.88 of 2020, decided on

24.02.2020 by this Court) however, he cannot seek any benefit from this ratio.

Thus, in the light of foregoing situation, there is no merit in the instant claim of the petitioner and the writ petition being wholly unsustainable stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 25, 2022
rps

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