

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

251

CWP-20378-2020

Date of Decision : 04.04.2022

Tarsem Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.Prabhjot Singh Mann, Advocate for
Mr. Jagjot Singh Sidhu, Advocate
for the petitioner.

Ms.Anju Sharma Kaushik, DAG, Punjab.

Harsimran Singh Sethi, J.(Oral)

In the present petition, the claim of the petitioner is that he has not been extended the pension under the old pension scheme despite the fact that the case of the petitioner is squarely covered by the judgment of this Court in ***CWP No.2371 of 2010 titled as Harbans Lal Vs. State of Punjab and others, decided on 31.08.2010,*** according to which an employee, who is already in service as on 01.01.2004 but his/her services might have been regularised thereafter, will be governed by Old Pension Scheme.

Learned counsel for the petitioner argued that in the present case, the petitioner was appointed as an SPO on 14.09.1992 on which post he continued working and ultimately his services were regularised on 26.06.2004 and the petitioner retired from service on attaining the age of superannuation

from the said post on 31.10.2012. Learned counsel for the petitioner further argued that the pensionary benefits are being paid to the petitioner as per the New Contributory Provident Fund which is applicable since 01.01.2004, which is contrary to the settled principles of law.

Notice of motion was issued.

Today, learned State counsel submits that keeping in view the instructions, she has been given by ASI Sanjeev Abrol, the claim of the petitioner for the grant of pension under the Old Pension Scheme keeping in view the judgment of this Court in *Harbans Lal' case (supra)* is covered.

Learned counsel for the petitioner submits that the State has no objection in case, the present petition is also disposed of in terms of *Harbans Lal' case (supra)*.

Ordered accordingly.

Let the pensionary benefits of the petitioner under the old pension scheme be calculated and released to the petitioner within a period of two months.

The petitioner retired from service in the year 2012. On the said date, the law settled in *Harbans Lal' case (supra)* had attained finality and should have been applied upon the petitioner. The respondents chose to do otherwise and now after a period of 10 years of the retirement of the petitioner, the respondents are conceding his claim before this Court. This shows that the claim for which the petitioner was entitled for at the time of his retirement in 2012, was not extended to him without any valid justification for a period of 10 years.

A Coordinate Bench of this Court in *J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355*, had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

“The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it.”

As, the admissible benefit was denied to the petitioner without any valid justification, the amount which will be calculated by the respondents now under the order will also bear interest @ 6% per annum from the date the petitioner retired till the same is released to him on account of the prejudice which the petitioner has suffered for the last 10 years as the said amount was retained and used by the respondents.

(HARSIMRAN SINGH SETHI)
JUDGE

04.04.2022
anju

Whether speaking/reasoned? *Yes/No*
Whether reportable? *Yes/No*