

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

2023:PHHC:166948

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**CWP-1611-2021 (O&M)
DECIDED ON: 08.12.2023**

S.P. WADHAWAN

... PETITIONER

VERSUS

HARYANA VIDYUT PARSARAN NIGAM AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.D.R. Bansal, Advocate
for the petitioner.

Mr. R.S. Longia, Advocate
for the respondents

SANDEEP MOUDGIL, J.

1. The jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been invoked seeking a writ in the nature of *Certiorari* for quashing the impugned order dated 24.12.2020 (Annexure P-25) with further prayer for issuance of a writ in the nature of *Mandamus* directing the respondents to restore commuted pension.

2. It is the case of the petitioner that he joined the service of erstwhile Punjab State Electricity Board as Junior Engineer in 1953, was promoted as Assistant Engineer. In the year 1967 on bifurcation of Punjab State Electricity Board he was allocated to Haryana State Electricity Board. He was sent on deputation to Rural Electrification Corporation in May 1973 and was permanently absorbed on 01.10.1977. He was allowed to retire w.e.f. 01.10.1977 by Haryana State Electricity Board (Annexure P-1) and was extended the benefit of pension from 01.10.1977 to

24.09.1978 in relaxation of Rule 5.32(s) of Punjab Civil Services Rules Vol-II vide office order dated 11.02.1980 (Annexure P-2) and was paid 100% commuted pension vide letter dated 25.08.1990 (Annexure P-3) for which he never applied. In the year 1998 Harvana State Electricity Board was wound up and its assets and liabilities were taken over by Haryana Vidyut Prasharan Nigam - respondent No. 1. In the case of absorbed employees of Haryana Govt, Lok Adalat of this Court vide order dated 3.5.2000 allowed restoration of full commuted pension which direction was to constitute a decree Section 21 of Legal Services Authority Act 1987. This decision stands implemented vide order dated 03.05.2000 (Annexure P-11) without any appeal. The petitioner filed CWP No.16697 of 1998 which was tagged with other writ petitions and vide order dated 12.08.2010 passed by this Court in CWP-16697-1998, titled as **“S.P. Wadhawan vs. Haryana Vidyut Parsaran Nigam and others”** (Annexure P-12), a direction was issued to the respondents to decide the issue within six months. The commuted pension of Sh. O.P. Katyal whose writ petition was decided vide order dated 12.08.2010 (Annexure P-12) was restored vide order dated 11.03.2014 (Annexure P-13). But the case of Sh. B.S. Kanwar whose writ petition was decided vide order dated 12.08.2010 (Annexure P-12) was rejected on the basis of legal advice of learned office of Advocate General. Sh. B.S. Kanwar filed CWP No.225 of 2013, which was allowed by this Court vide order dated 21.11.2018 (Annexure P-14).

3. A similar controversy arose in the case of employee of Deputy Controller General of Accounts who filed OA No.471 of 2001 in the CAT Chennai which was dismissed and he challenged the same in Madras High Court and his claim was allowed restoring full commuted

pension on the ground that under Section 12 of Pensions Act, 1871, there can be no assignment of pension. CA No.6371 of 2010 was dismissed by the Hon'ble Supreme Court vide order dated 01.09.2016 (Annexure P-16). The same was implemented by the Central Government vide order dated 21.12.2016 (Annexure P-17) and Review against the same was also dismissed vide order dated 22.03.2017 (Annexure P-18). Again order dated 23.06.2017 (Annexure P-19) was issued by the Central Government implementing the judgment.

4. A similarly situated employee who went on deputation to Rural Electrification Corporation on 15.11.1977 and was allowed to retire w.e.f. 31.03.1986 and was paid 100% commuted pension but did not file any representation/ writ petition but served a legal notice through counsel on 16.09.2019 and when no action was taken by the authorities, he filed CWP No.28926 of 2019 which was disposed offvide order 04.10.2019(Annexure P-21) directing the respondents to decide the legal notice. Vide order dated 12.11.2020 (Annexure P-22), respondents hadgranted the restoration of pension as extended to Sh. OP Katyal and Sh. B.S.. Kanwar.

5. It is submitted by counsel for the petitioner that in view of the above petitioner is entitled to restoration of commuted pension with interest from the date due till the date of payment. The case of the petitioner is squarely covered by the judgment of this Court in the case of **“M.K. Mittal vs. HVPN”,CWP-21459-2015,decided on 14.09.2023,** which fact has not been controverted by learned counsel for the respondents, as far as the ration laid down in the said judgment.

6. Accordingly the present petition is allowed in the same terms and order dated 24.12.2020 (Annexure P-25) is hereby, quashed and the respondent-Nigam is directed to restore to the petitioner full monthly pension, from the date of expiry of 15years of petitioner’s superannuation and pay all the arrears payable to him along-with interest @ 6% per annum and continue to pay the same for the future period.

7. Let, the needful be done within two months from the date of receipt of a certified copy of this order, failing which the amount of pension and arrears of pension shall be payable @ 12% per annum.

8. Ordered accordingly.

08.12.2023
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(SANDEEP MOUDGIL)
JUDGE

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