

CWP No. 10189 of 2023

2023:PHHC:144121

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(272)

CWP No. 10189 of 2023

Date of Decision : 14.11.2023

Dalbir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Sangwan, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General,
Haryana.

Harsimran Singh Sethi J. (Oral)

In the present petition, the challenge is to the order dated 07.04.2023 (Annexure P-14) by which, the claim of the petitioner for the grant of retiral benefits under the Old Pension Scheme has been declined by the respondents.

Learned counsel for the petitioner submits that as per the judgment of the Division Bench of this Court in CWP No. 2371 of 2010 titled as **Harbans Lal Vs. State of Punjab and others**, decided on 31.08.2010, an employee, who was already in service on the day when the new pension scheme was brought in operation, is very much entitled to be considered under the Old Pension Scheme even if the services of the said employee have been regularized after coming into force of the

new pension scheme. Learned counsel for the petitioner submits that the petitioner has raised the said grievance before this Court by filing CWP No. 1987 of 2023, which was disposed of on 02.02.2023 with direction to the respondents to consider the claim of the petitioner as per the settled principle of law. Learned counsel for the petitioner submits that by a totally cryptic and non-speaking order, the said representation of the petitioner has been rejected by the impugned order dated 07.04.2023 (Annexure P-14), which order is liable to be set-aside with the direction to the respondents to consider the claim of the petitioner by taking into consideration the relevant principle of law settled in *Harbans Lal (supra)*.

Learned counsel for the respondents concedes the factum that the judgment in *Harbans Lal (supra)*, has not been taken into account while passing the impugned order dated 07.04.2023 (Annexure P-14).

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

Once, the direction given to the respondents to consider the claim of the petitioner in the light of the judgment relied upon, especially *Harbans Lal (supra)*, the respondents were under obligation to consider the said claim in the light of the said judgment, which consideration is not given by the respondents, which fact is clear from the bare perusal of the impugned order.

In view of the above, the impugned order dated 07.04.2023 (Annexure P-14) is set-aside. The case is remanded back to the respondents to pass a fresh order in accordance with law keeping in view the judgment in *Harbans Lal (supra)*. Let the fresh order be passed within a period of two months from the receipt of copy of this order.

November 14th, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No