

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

CWP No.19828 of 2019

Date of decision : 22.03.2023

Parveen Kumar

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Baljeet S. Sidhu, Advocate
for the petitioner.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab.

Mr. Rahul Verma, Advocate
for respondent No.3.

PANKAJ JAIN, J. (ORAL)

Prayer in the instant writ petition filed under Article 226/227 of the Constitution of India is for issuance of writ in the nature of mandamus directing the respondents to grant pensionary benefits under the Municipal Employees Pension and General Fund Rules 1994 (hereinafter referred to as '1994 Rules').

2. The petitioner was appointed as Sweeper in the year 1979 with the respondent-Municipal Committee. In the year 1994, State Government notified Municipal Employees Pension and General Fund Rules 1994. As per Rule 3(2) an employee was required to exercise his option w.r.t. grant of pension within a stipulated period. The

petitioner could not exercise the same. The issue w.r.t. to exercise of such option at the hands of employee after the expiry of the stipulated period came up for consideration before this Court in the case of **Smt. Soma vs. State of Punjab – CWP-3827-2004** decided on 25th of July, 2005 wherein the Division Bench held as under :-

“After hearing the learned counsel for the parties and going through the material on record, we are of the view that this writ petition, deserves to be allowed. It is the case of the petitioner that she had specifically opted for availing pensionary benefits under the 1994 rules. In para – 7 of the writ petition, it has been specifically averred that petitioner requested the respondents on several occasions to grant her pensionary benefits. In reply to para 7, alongwith the respondent acknowledges the factum of requests made by the petitioner, yet nothing has been stated as what timely steps were taken to redress the grievance of the illiterate employee nor has anything been stated that the petitioner was informed of the factual position. Had the petitioner been informed in time of actual and factual position, she might have represented about furnishing option by her.

Accordingly, the writ petition is allowed. The respondents are directed to allow the petitioner to exercise her option in accordance with the 1994 rules within a period of one month of the date of receipt of a certified copy of this order and thereafter give her the consequential benefits subject to her fulfilling the conditions of eligibility for being governed under the 1994 rules.”

3. The matter was thereafter taken by the official respondents before the Supreme Court in SLP which was dismissed. Further again the similar issue related to an illiterate lady who was working as Sweeper came up before Writ Court in **CWP No.13892 of 2010** titled

as **Dropati vs. State of Punjab and others**, decided on 14th of March, 2011 wherein following the ratio of law laid down in Smt. Soma's case (supra) this Court held that the reasons assigned in Soma's case are applicable *mutatis mutandis* in the case of Dropati as well.

4. Mr. Verma has however opposed the claim raised by the petitioner with vehemence to contend that stale claim of petitioner after considerable delay ought not be entertained.

5. In the considered opinion of this Court there is nothing on record to suggest that the factum of requirement to opt under the Pension Rules was ever communicated to the petitioner who is an illiterate person working as Sweeper. The fact w.r.t. delay in exercising such option has already been dealt with by Division Bench of this Court in the case of **Smt. Soma vs. State of Punjab** (supra) that too with the approval of Apex Court. Thus following the ratio of law laid down in Smt. Soma's case, this Court does not find any reason to treat the present petition differently. Resultantly, the present writ petition is allowed.

6. The respondents are directed to allow the petitioner to exercise his option under 1994 Rules for grant of pension within a period of 8 weeks from the date of receipt of certified copy of this order.

7. Needless to say, the petitioner shall be liable to refund the

entire Provident Fund amount to the Council at the time of exercising such option along with interest, if any, received by the petitioner.

8 After the petitioner exercises such option within the time period stipulated herein above and refunds the amount of PF, the respondents shall process claim of the petitioner and release necessary terminal benefits to him within a period of 12 weeks thereafter.

March 22, 2023
Dpr

(PANKAJ JAIN)
JUDGE

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