

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

2024.PHHC.131192



CWP No. 6500 of 2020

Date of Decision: 03.10.2024

Sh. Rohtash Singh and others

....Petitioners

vs.

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Parveen Gupta, Advocate
for the petitioners

Mr. Rajesh Hooda, Advocate
for respondents No. 2 and 3

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Article 226 of the Constitution are seeking direction to respondents to release them revised pension as per judgment of Supreme Court in **R.C. Gupta and others Vs. Regional Provident Fund Commissioner Employees Provident Fund Organization and others (2018) 14 SCC 809.**
2. Mr. Parveen Gupta, Advocate submits that case of petitioners is squarely covered by judgment of this Court passed in CWP No. 5378 of 2024 titled as "Inderjit Singh Kaknian and others vs. Union of India and others".
3. Mr. Rajesh Hooda, Advocate submits that aforesaid judgment is not applicable to instant petition because Department did not accept option



of petitioners in terms of paragraph 11 (3) of Employees' Pension Scheme, 1995. As petitioners did not file option during their service tenure and attempted to file option in 2018 which was declined on 17.12.2019, thus, petitioners are not at par with petitioners of aforesaid writ petition.

4. From the perusal of communication dated 17.12.2019 (Annexure P-27) and submissions of petitioners, it is evident that petitioners attempted to file option in 2018, however, option was declined by respondent. The option of petitioners was rejected on the sole ground that they did not file option during their service and opted to exercise option after retirement. They have exercised option in existing pension limit. The relevant extracts of communication dated 17.12.2019 are reproduced as below:-

“It is ample clear from above that the option can only be exercised by an existing member & employer while in service, whereas in 67 cases submitted through employer, pensioners have desired to exercise their options as pensioners ie. after retirement not as an existing member which is not acceptable.

Further it is also observed that they have claimed pension after Superannuation on statutory limit and have also accepted the same & therefore have already exercised their option for existing pension limit.

Further this office has already given ample opportunity to these employees through employer to clarify if any option was exercised by them while being in service but no such information has been provided. As per office record no option was exercised while in service, therefore



the directions laid down by the Hon'ble Supreme Court in the case of RC Gupta are not applicable in their cases.

Hence, all the 37 cases for revision of pension based on higher wages are returned with a request to convey all theses ex- employees/pensioners accordingly.”

5. The petitioners exercised option in 2018 which was rejected in 2019. The petitioners cannot be denied benefit of revised pension on the sole ground that respondent rejected their option. The respondent at its sweet will accepted option of most of the employees and rejected in a few cases. This Court does not find any substance in the contention of the respondent to distinguish case of present petitioners from case of petitioners in the afore-said writ petition.

6. The petition stands allowed in terms of judgment passed by this Court in CWP-5378 of 2024.

(JAGMOHAN BANSAL)
JUDGE

03.10.2024
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No