



**103+218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-14174 and 14177-CWP-2023 in/and
CWP No.16820 of 2016 (O&M)
Date of Decision : 01-10-2024**

RANJEEV ARORA

.....Petitioner

VERSUS

STATE OF PUNJAB AND ORS.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K Arora, Advocate with
Ms. Sanowar, Advocate
for the petitioner.

Mr. T.P.S Chawla, Sr. DAG Punjab.

Mr. Sachin Kalia, Advocate
for Mr. R.S Cheema, Advocate
for the respondent No.3.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-14174 and 14177-CWP-2023 in/and CWP No.16820 of 2016 (O&M)

Present applications have been filed for placing on record order dated 01.02.2017 passed in CWP No.5532 of 2015 order dated 28.02.2019 passed in CWP No.5396 of 2019 and speaking order dated 13.04.2020 as Annexures P21 to P23 as well as for final disposal of the main writ petition.

Notice of the applications to the counsel opposite.

Mr. T.P.S Chawla, Sr. DAG Punjab, who is present in the Court, accepts notice on behalf of respondent-State and raises no objection for the grant of prayer as raised in the present applications.

Keeping in view the above, applications are allowed and Annexures P-21 to P-23 are taken on record subject to all just exceptions.

CWP No.16820 of 2016 (O&M)

In the present petition, the grievance being raised by the petitioner is that New Pension Scheme has been implemented upon the petitioner though, keeping in view the facts and circumstances in the present case where the petitioner was already in service as on 01.01.2004, by applying the judgment of this Court in CWP No.2371 of 2010 titled ***“Harbans Lal Vs. State of Punjab and ors.”***, decided on 31.08.2010, which judgment has already attained finality, the petitioner is entitled to be considered under the Old Pension Scheme.

Learned counsel for the petitioner further submits that a similar claim of the colleague of the petitioner has already been allowed by the Co-ordinate Bench of this Court in CWP No.5532 of 2015 titled ***“ Jasvinder Singh Vs. State of Punjab and ors.”***, decided on 01.02.2017 and thereafter in another case in CWP No.5396 of 2019 titled ***“Shailender Thakur Vs. State of Punjab and ors.”***, decided on 28.02.2019, wherein the petitioner also joined the Government of Punjab after working in an aided institution, the benefit of the said service rendered in the aided Institution has been extended to him by the respondents themselves vide order dated 15.04.2000, copy of which has been appended as Annexure P-23.

Learned counsel for the respondents submits that the petitioner only came into service of the Government of Punjab after 01.01.2004 hence once, a particular clause was mentioned in the appointment order of the petitioner that he will be governed by the contributory provident fund, and

not the Old Pension Scheme, the claim of the petitioner is liable to be rejected.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is not disputed that in the present petition, the petitioner was initially appointed on an aided post in an aided institution. The said appointment was prior to 01.01.2004 and the petitioner working on the said post was appointed with the Government of Punjab though, after 01.01.2004. It is also not disputed that at the time of appointment, it was mentioned that the petitioner will be governed by the new contributory provident fund. All these facts also existed in *Jasvinder Singh's case (supra)* and the Co-ordinate Bench after applying the judgment in *Harbans Lal's case (supra)*, held that Jasvinder Singh, is entitled for the consideration under the Old Pension Scheme and the Clause in the appointment order cannot take away the right of the petitioner which existed in his favour in terms of the judgment in *Harbans Lal's case (supra)*.

Learned counsel for the respondent-State has not been able to point out any differentiating facts between the petitioner and *Jasvinder Singh's case (supra)*, whose claim was allowed by the Co-ordinate Bench of this Court.

Not only this, another similarly situated employee in *Shailender Thakur's case (supra)*, who was also working in the aided institution, and was selected in the Government institution after 01.01.2004, has also been allowed the same benefit on the basis of the judgment in

Jasvinder Singh's case (supra), by the respondents themselves vide order dated 15.04.2000, copy of which has been appended as Annexure P-23.

The said fact has gone unrebutted.

Keeping in view the above facts, the petitioner is also held entitled for the grant of benefit as admissible under the Old Pension Scheme and the present petition is also allowed in terms of *Jasvinder Singh's case (supra)*.

Let all the benefits under the Old Pension Scheme be released to the petitioner within a period of 8 weeks from the receipt of copy of this order.

Respondents will be entitled to adjust the payments made to the petitioner under New Contributory Provident Fund Scheme, while granting the arrears, if any, found admissible to under this order.

Present petition is allowed in above terms.

Pending application, if any, also stands disposed of.

01-10-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking : YES/NO
 Whether reportable: YES/NO