

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on: 18.01.2024
Date of Pronouncement: 30.01.2024

1. CWP No.16147 of 2023

Surjit Singh		Petitioner
	Versus	
State of Punjab and Others		Respondents

2. CWP No.22492 of 2016

Ram Krishan and others		Petitioners
	Versus	
State of Punjab and Others		Respondents

3. CWP No.15123 of 2017

Darshan Kumar		Petitioner
	Versus	
State of Punjab and Others		Respondents

4. CWP No.15502 of 2023

Amarjeet Singh		Petitioner
	Versus	
State of Punjab and Others		Respondents

5. CWP No.15513 of 2023

Jaswinder Singh		Petitioner
	Versus	
State of Punjab and Others		Respondents

6. CWP No.15517 of 2023

Balwinder Singh		Petitioner
-----------------	--	----------------

CWP No.16147 of 2023 (O&M)		2
		2024:PHHC:006821
State of Punjab and Others	Versus	
		Respondents
7. CWP No.15526 of 2023		
Kuldeep Kumar		Petitioner
	Versus	
State of Punjab and Others		Respondents
8. CWP No.16214 of 2023		
Gurparvinder Singh		Petitioner
	Versus	
State of Punjab and Others		Respondents
9. CWP No.15594 of 2023		
Kewal Krishan		Petitioner
	Versus	
State of Punjab and Others		Respondents
10. CWP No.15491 of 2023		
Neelam Rani		Petitioner
	Versus	
State of Punjab and Others		Respondents
11. CWP No.14991 of 2023		
Vijay Kumar		Petitioner
	Versus	
State of Punjab and Others		Respondents
12. CWP No.15693 of 2023		
Naresh Kumar		Petitioner
	Versus	
State of Punjab and Others		Respondents

13. CWP No.15481 of 2023

Gurpreet Singh
State of Punjab and Others
Versus
....Petitioner
....Respondents

14. CWP No.15610 of 2023

Shiv Kumar
State of Punjab and Others
Versus
....Petitioner
....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Arvind Kashyap, Advocate
and Mr. D.S. Kahlon, Advocate for the petitioners.
(in CWP-22492-2016 and CWP-15123-2017)

Mr. Ranjivan Singh, Advocate
with Mr. Risham Raag Singh, Advocate
for the petitioners (in CWP-16147-16214-2023)

Mr. Abhishek Singla, Advocate
for the petitioners (in CWP Nos.15491, 15502, 15513,
15517, 15526, 15594, 14991, 15693, 15481,
15610 of 2023)

Mr. Ajit Singh Natt, AAG, Punjab.

Mr. Bindu Goel, Advocate
for respondent No.3/M.C. Hoshiarpur
(in CWP-16214-2023)

Mr. Sanjeev Soni, Advocate
with Mr. Sarthak Soni, Advocate
for the respondent No.3 (in CWP-22492-2016,
CWP-15123-2017, CWP Nos.15502, 15513, 16147,
15517, 15526, 15594, 15491, 14991, 15693,
15481, 15610 of 2023)

NAMIT KUMAR J.

1. This judgment shall dispose of CWP-16147-2023, CWP-
22492-2016, CWP-15123-2017, CWP-15502-2023, CWP-15513-2023,

2024:PHHC:006821

CWP-15517-2023, CWP-15526-2023, CWP-16214-2023, CWP-15594-2023, CWP-15491-2023, CWP-14991-2023, CWP-15693-2023, CWP-15481-2023 and CWP-15610-2023, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CWP No.16147 of 2023.

2. Feeling aggrieved against the order dated 26.05.2023 (Annexure P-16), whereby the claim of the petitioner for release of benefits under the Old Pension Scheme, has been rejected and for impugning the said order, the instant writ petition has been filed under Articles 226/227 of the Constitution of India.

3. Brief facts as pleaded in the writ petition are that that the petitioner was appointed as Mate on daily wage basis on 01.04.1993 in erstwhile Municipal Council, Hoshiarpur (now Municipal Corporation) and his services were terminated on 31.03.1994 and against the said termination, the petitioner raised the industrial dispute and vide award dated 22.02.2001 (Annexure P-1), the learned Labour Court, Jalandhar, held that the termination of the petitioner/workman is illegal, null and void and the same was accordingly set-aside and the petitioner was ordered to be reinstated in service with continuity of service with full back wages. Consequent upon the award dated 22.02.2001, the petitioner was allowed to join his duties w.e.f. 18.09.2002. Keeping in view the length of service of the petitioner, his services were ordered to be regularized vide order dated 15.03.2012, in the pay-scale of 4900-10680 + Grade Pay 1650. Clause I of the said regularization order states that the petitioner will be subject to applicability of New Defined

2024:PHHC:006821

Contributory Pension Scheme. The said Scheme has come into force by way of Notification dated 12.12.2006 after amending Rule 1.2 of the Punjab Civil Services Rules Volume 1 Para 1 and has been made applicable to the government employees, who are appointed on or after 01.01.2004. It has further been averred that the petitioner submitted representation dated 29.05.2015 for implementation of the Pension Scheme, which was prevalent prior to 01.01.2004 as he was covered under the Old Pension Scheme. The same was followed by another representation dated 15.10.2015, however, no action whatsoever was taken by the respondents on the said representation, therefore, the petitioner approached this Court by filing CWP No.22028 of 2016, which was disposed of by this Court vide order dated 20.01.2023 and respondent No.3/competent authority was directed to consider and decide the claim made in the representations dated 29.05.2015 and 15.10.2015, in accordance with law by passing a speaking order within a period of 03 months and it was further ordered that in case the petitioner is found entitled, his claim be released within a period of 06 weeks thereafter. The petitioner, thereafter, served a legal notice dated 13.03.2023, upon the respondents for claiming the benefit of Old Pension Scheme and along with the legal notice attached various judgments passed by this Court wherein similar claim of similarly situated employees was accepted by this Court. However, the claim of the petitioner for grant of pensionary benefits under the Old Pension Scheme, which was prevalent prior to 01.01.2004, has been rejected by respondent No.3 vide order dated 26.05.2023, mainly on the ground that

2024:PHHC:006821

when the services of the petitioner were regularized w.e.f. 15.03.2012, New Pension Scheme had already come into force w.e.f. 01.01.2004, therefore, his case is not covered under the Old Pension Scheme. The said order is impugned in the present writ petition.

4. Upon notice of motion, the respondents have filed the reply.

5. In the reply again, same stand has been taken and it has been stated that the services of the petitioner were regularized under the New Pension Scheme, which has come into force w.e.f. 01.01.2004 and Clause 1 of the regularization order issued to the petitioner specifically states that the petitioner will get the benefit of New Pension Scheme and after reading the terms and conditions, the petitioner has given his joining report, therefore, the question of granting perks to the petitioner under the Old Pension Scheme (OPS), does not arise and further as per the instructions of the government dated 12.12.2006, a deduction of 10% contribution was to be made from the salary of the employees falling under New Pension Scheme, as per which the same was to be deducted in the case of present petitioner also from the date of regularization of his services as C.P.F. As per the said Rule, Contributory Pension Fund Ledger No.140 was allotted to the petitioner and a letter numbered 1391 dated 16.06.2017 was issued to the petitioner asking the petitioner to deposit the requisite documents for opening an account under the New Pension Scheme but till date the said documents have not been submitted by the petitioner.

6. I have heard learned counsel for the parties and have gone

through the record with their able assistance.

7. The facts stated above are not in dispute. The only question of law to be decided in the present writ petition is whether though the services of the petitioner were regularized after 01.01.2004, is he still entitled for pension under the old pension scheme or not.

8. This question of law has already been decided by the Division Bench of this Court while deciding the case ***“Harbans Lal Vs. State of Punjab and others”***, 2012(3) SCT 362. A Division Bench of this Court has held that though an employee's service might have been regularized after 01.01.2004, in case he was in service prior to the said date even on daily wage basis or work charge basis, he/she still will be entitled for pension under the old pension scheme. The relevant paragraph of the said judgment is as under:-

“16. From the above discussion, we have come to the conclusion that the entire daily wage service of the petitioner from 1988 till the date of his regularization is to be counted as qualifying service for the purpose of pension. He will be deemed to be in govt. service prior to 01.01.2004. The new Re-structured Defined Contribution Pension Scheme (Annexure P-1) has been introduced for the new entrants in the Punjab Government Service w.e.f. 01.01.2004, will not be applicable to the petitioner. The amendment made vide Annexure P-2 amending the Punjab Civil Services Rules, cannot be further amended by issuing clarification/instructions dated 30.5.2008 (Annexure P-3). The petitioner will continue to be governed by the GPF Scheme and is held entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Govt. Services prior to 01.01.2004.

2024:PHHC:006821

17. In view of the above, the writ petition is allowed. Accordingly respondents are directed to treat the whole period of work charge service as qualified service for pension because accordingly to clarification issued on 30.05.2008 (Annexure P-3), the new defined Contributory Pension Scheme would be applicable to all those employees who have been working prior to 01.01.2004 but have been regularized thereafter. Let his pension and arrears be calculated and paid to him expeditiously, preferably within a period of three months from the date of receipt of copy of this order.”

9. Learned counsel for the respondent has not been able to distinguish the case of the petitioner from the judgment of *Harbans Lal's case (supra)*.

10. Once, the petitioner was appointed in the year 1993 and he continued uninterruptedly in service till he retired on 29.02.2020 and in the meantime his services had already been regularized on 15.03.2012, the case of the petitioner is squarely covered by the judgment of this Court in *Harbans Lal's case (supra)*.

11. The judgment in case of *Harbans Lal's case (supra)* was challenged by the State before the Hon'ble Supreme Court by filing a Special Leave Petition, which was dismissed vide order dated 30.07.2012 and thereafter, the review petition was also filed in the said SLP, which was also dismissed vide order dated 04.11.2015.

12. Various other similar writ petitions have been allowed by the learned Single Judge of this Court including CWP No.23469 of 2015, titled as “*Gurbachan Singh vs State of Punjab and others*”, which was allowed vide orders dated 06.05.2019 in terms of the judgment

2024:PHHC:006821

rendered in the case of Harbans Lal's case (supra) and CWP No.637 of 2017, titled as "*Yog Raj vs State of Punjab and others*", decided on 25.11.2019.

14. Similarly, various other judgments rendered by the learned Single Judge, while allowing the similar claim of similarly situated employees by different orders on the basis of the Division Bench judgment in Harbans Lal's case (supra), were challenged before the Division Bench of this Court in LPA No.666 of 2022, titled as "*Municipal Council, Qadian vs Musthaq Masih and others*" and other connected appeals and the matter has again been considered by the Division Bench of this Court vide judgment dated 21.12.2023 and the same stand taken by the respondents has been rejected. The relevant portion from the said judgment, reads as under:-

*"8. Learned counsel for the appellant(s) has argued that although, the services of petitioner-respondent No.1 were regularized by way of resolution dated 01.11.2011, yet on the date when the services were regularized, the New Defined Contributory Pension Scheme had come into effect from 01.01.2004. Even if, the petitioner was working for the last 10 years, he cannot be given the benefit of Old Pension Scheme, as the same had come to an end on 01.01.2004. He has referred to the judgment passed in **State of Haryana and others vs. Nathu Singh, 2018 (3) SCT 596**. In that case, a specific conditions were laid down in the appointment letter regarding appointment being afresh, at the beginning of scale and the employee was to be placed at the bottom of seniority with no benefit of past service. It was held that the employee could not be permitted to turn around and claim his past service to be*

2024:PHHC:006821

*counted for the purpose of pensionary benefits. Further, reference has been made to the judgment passed by Hon'ble the Supreme Court in **The State of Gujarat vs. PWD and Forest Employees Union & others, 2019 (2) SCT 146**, wherein, after regularization, benefit of GPF was denied to the employees on the ground that w.e.f. 01.04.2005, CPF Scheme had been introduced. Earlier pension scheme continued to annued to benefit of those who entered in service before 01.04.2005. It was held that the benefit of GPF was to be given to those daily wagers, who became entitled to get status of regular employees before 01.04.2005.*

*9. Learned counsel for the appellants states that in the facts of the present case, as per resolution dated 01.11.2011 (Annexure P-2), the petitioner-respondent No.1 was regularized w.e.f. 2011 and the Old Pension Scheme had come to an end on 01.01.2004 i.e. much before the date when his services were regularized. On the date of regularization of the services of petitioner-respondent No.1, the Old Pension Scheme was not being implemented and the benefit of this scheme cannot be given to the employees, who were regularized in the year 2011. Learned counsel for the appellants has referred to another judgment passed by Hon'ble the Supreme Court in **Union of India and others vs. Ilmo Devi and another, 2022 (1) Apex Court Judgments (SC) 751** on the proposition that part time employees, who are working for four to five hours a day, cannot claim parity with other Group 'D' employees with respect to minimum basic pay. In that case, the High Court had granted minimum basic pay of Group 'D' posts to the part time daily wagers. On appeal, Hon'ble the Supreme Court set aside the said directions given by the High Court.*

2024:PHHC:006821

10. Heard, learned counsel for the parties.

11. First of all, a perusal of resolution dated 01.11.2011 (Annexure P-2) shows that the Director, Local Government, Punjab, had taken a decision that services of employees working in various Municipal Councils, who had rendered more than 10 years of service on contract basis, would be regularized. In Nagar Council, Qadian, two clerks/4 Safai Sewaks were working on contract basis for the last 10 years and their case for regularization was presented for approval. As per letter dated 23.12.2011 (Annexure P-3), Mushtaq Masih-petitioner (respondent No.1) was given appointment on the post of Clerk in the regular pay scale of 5910- 20200+1900. He was to be on probation for a period of two years. His services were to be governed under the New Pension Rules. Prior to his appointment on regular basis, his last 10 years' service had been taken into account and made basis for giving regular appointment.

12. This very issue had come up for consideration in Harbans Lal's case (supra), wherein this Court had made reference to Rule 3.17A of Punjab Civil Services Rules, Vol. II, which reads as under:-

“3.17A (I) subject to all the provisions of rule 4.23 and other rules and except in the cases mentioned below, all service rendered on establishment, interrupted or continuous, shall count as qualifying service:-

(i) Service rendered in work-charged establishment.

(ii) Service paid from contingencies: Provided that after 1st January, 1973 half of the service paid from contingencies will be allowed to count towards pension at the time of absorption in regular employment subject to the following conditions:-

(a) Service paid from contingencies should have been in a job involving whole-time employment (and not part-time or for a portion of the day).

(b) Service paid from contingencies should have

2024:PHHC:006821

been in a type of work or job for which regular post could have been sanctioned e.g. Malis, chowkidars, khalasis, etc.

(c) The service should have been one for which the payment is made either on monthly or daily rates computed and paid on a monthly basis and which though not analogous to the regular scale of pay should bear some relation in the matter of pay to those being paid for similar jobs being performed by staff in regular establishment.

(d) The service paid from contingencies should have been continuous and followed by absorption in regular employment without a break.

(iii) Casual or daily rated service.

(iv) Suspension adjusting as a specific penalty.”

*13. As per the above rules, after 01.01.1973, half of the service paid from contingencies was also to be allowed to count towards pension at the time of absorption in regular employment, but in any case casual or daily rated service, amongst others cannot be counted towards qualifying service for pension. In that case, reference was made to a Full Bench judgment passed in **Kesar Chand vs. State of Punjab, 1998 (2) PLR 223**, wherein it was held that the work charged service rendered before regularization, was liable to be counted as qualifying service for the purpose of pension. In **Harbans Lal's** case (*supra*), further reference was made to the judgment passed in **Smt. Ramesh Tuli vs. State of Punjab and others, 2007 (3) SCT, 791**, wherein a Division Bench of this Court had examined the proposition, as to what would be the qualifying service for pension as per Clause 6 (6) of the 1992 Pension Scheme, applicable to the Punjab Privately Management Recognized Schools Employees. It was held that the entire service would be counted as qualifying service for the purpose of pension. However, the Contributory Provident Fund was required to be adjusted and deducted from the arrears of pension. It was further*

2024:PHHC:006821

*held that the petitioners' initial date of appointment, after regularization, would be the date on which employee took charge of the post. Once the entire service of a daily wager was to be counted as qualifying service, then his date of appointment would relegate back to his initial date of appointment i.e. 1988 and he could not be ousted from pension scheme by applying the date of regularization i.e. 28.03.2005, which was evidently after the new scheme or new restructured defined Contribution Pension Scheme. Reference was made to another judgment passed by Division Bench of this Court in **Hans Raj vs. State of Punjab and others, 2005 (3) RSJ 262**. In that case, the Division Bench had examined the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994. The State of Punjab, vide instructions dated 08.01.1999, had provided that since the Pension Rules had been made applicable in lieu of CPF, the period to be considered as qualifying for pension had to be restricted to the period for which the employee was contributing to his CPF. Those instructions were held contrary to the Pension Rules and the petitioner was held entitled to count his entire service as qualifying service for the purpose of pension. The condition that qualifying service would commence from the date of contribution to the CPF, had been rejected by the Division Bench. Finally, the Division Bench, while referring to the case of **Hans Raj (supra)**, held that the New Defined Contributory Pension Scheme came into effect w.e.f. 01.01.2004. However, since the petitioner was working from 1988, he would be deemed to be in service prior to 01.01.2004. He would be continued to be governed by the GPF Scheme and was entitled to receive pensionary benefits as applicable to the employees recruited in the Punjab Government Services prior to*

2024:PHHC:006821

01.01.2004. The clarification/instructions dated 30.05.2008 could not deny the benefit of past service to the employees.

14. The ratio of the judgment passed in **Harbans Lal's case (supra)** is applicable to the facts of the present case, as the New Defined Contributory Pension Scheme came into effect w.e.f. 01.01.2004. Rule 3.17A of Punjab Civil Services Rules, Vol. II, which deals with counting of past service towards pension has been elaborately examined in the said judgment. This rule has also been interpreted in **Kesar Chand's case (supra)**, wherein it has been held that the work charged service rendered before regularization, is liable to be counted as qualifying service for the purpose of pension. The decision given in **Harbans Lal's case (supra)** was, thereafter, followed in **Sultan Ram and others vs. State of Punjab and others**, CWP-13458-2012 (decided on 17.01.2013), which was later on, clarified vide order dated 31.01.2013 passed in CM-1606-2013 to the effect that Old GPF Scheme will be applicable to all those employees, who were the employees prior to 2004, but had been regularized thereafter. The said judgment has attained finality upto Hon'ble the Supreme Court.

15. On the other hand, judgment referred to by learned counsel for the appellants in **The State of Gujarat vs. PWD and Forest Employees Union & Others, 2019 (2) SCT 146**, is not applicable to the facts of the present case, as in that case, the Government had passed a resolution dated 17.10.1988, whereby certain benefits were to be given to the daily wage workers, who had been working for number of years. Another resolution dated 24.03.2006 was also passed in respect to Road and Building Department for determining pensionable service in cases of daily

2024:PHHC:006821

wagers having attained permanency on account of application of GR dated 17.10.1988. Hon'ble the Supreme Court held that the benefit of GPF Scheme was to be granted to the employees, who had been regularized prior to 01.04.2005. 01.04.2005 would be the cut off date. All those persons, we would be entitled to regularization/permanent status prior to April 01, 2005 would be given the benefit of GPF. In that case, Hon'ble the Supreme Court was not examining Rule 3.17A of Punjab Civil Services Rules, Vol. II, wherein it has been categorically stated that half of the service rendered from contingencies will be allowed to count towards pension. Therefore, the judgment referred to by learned counsel for the appellants in the case of **PWD and Forest Employees Union & Others (supra)** will not be of any use for the appellants. Further, the judgments passed in **Nathu Singh and Ilmo Devi's cases (supra)**, which have been referred to by learned counsel for the appellants, are also not applicable to the facts of the present case. In the present case, the benefit has been granted to the petitioner-respondent No.1 in view of the judgment passed in **Harbans Lal's case (supra)**, wherein Rule 3.17A of Punjab Civil Services Rules, Vol. II has been elaborately examined by the Division Bench of this Court.

16. Thus, after going through the contents of appeals as well as the impugned judgment(s), this Court is of the view that the benefit of Old Pension Scheme has rightly been granted to the petitioner(s). Hence, no ground is made out to interfere in the well reasoned judgment(s) passed by the learned Single Judge.

17. Resultantly, finding no merits, all the aforesaid appeal(s) stand dismissed. Since, the main appeal(s) have been dismissed, all the pending misc. applications stand

disposed of.”

14. The Division Bench of this Court in “***Rattan Singh vs The State of Haryana and others***”, 1995(1) SCT 711, has held that where the Court has granted relief to a large number of similarly situated employees, it is expected from a welfare state to apply those decisions to all similarly situated persons without compelling them to knock the doors of the Courts which amounts to wastage of time and public money. The operative part of the said judgment, reads as under:-

“1. Practice adopted by various State Governments, and Government of Haryana is no exception to this practice, to grant relief only to those persons who approach the Court of law leads to avoidable litigation in the Courts. Those running Governments are wholly unmindful of indirect loss to the public exchequer caused due to this unsavory practice. They do not realise the magnitude of injury which is suffered by the Society on account of filing of Court cases in relation to a subject-matter which already stands decided not only by the High Courts but also by the highest judicial institution of the country. Each petition/plaint presented in the Court consumes substantial amount of papers and the biggest source from which the paper is manufactured is forest wood. Consumption of papers in the Courts indirectly contributes to the consumption of forest and all must remember that future generation will not pardon us for our failure to protect the environment and ecology. These few words are as a reminder to those actively involved in the running of the Government of the State that once a judgment is tendered by a Court of law and particularly the High Court of the State and such judgment acquires finality, principles laid down in that judgment should be

2024:PHHC:006821

applied unanimously to all persons similarly situated. Time has come when we must give a decent burial to the theory of litigious perseverance.

2 to 7. XXX XXXXXXXXXXXXX

8. In so far as these cases are concerned, we find that between the years 1987 to 1994, the Supreme Court as well as this Court has given relief to a large number of similarly situated persons. As a welfare State it was expected of the respondent-State of Haryana to apply those decisions to all similarly situated persons without compelling them to knock the doors of the Courts. Teachers belonging to School Cadre do not fall in the category of affluent persons. Ordinarily they are expected to devote themselves in the process of nation building. They are to inculcate a spirit of sacrifice in the younger generations of the country and, therefore, if the petitioners who belong to the class of teachers have patiently waited for appropriate action by the Government to give relief to them on the basis of the judgments rendered by the Apex Court and by this Court, it is not possible to hold that they have negligent in pursuing their cause. Moreover, it is not the case of the respondents that right of third parties have accrued and such rights would be unsettled by grant of relief to the petitioners. In this view of the matter, we are not prepared to accept the objection of the learned Assistant Advocate General that the petitioners should be non-suited only on the ground that they have approached the Court after many years.”

15. Further, the Division Bench of this Court in **“Sathir Singh vs State of Haryana”, 2002(2) SCT 354**, wherein it has been held as under:-

“10. Articles 141 and 142 of the Constitution of

2024:PHHC:006821

India make the judgment of the Apex Court binding on all courts. All authorities including the State must implement the orders effectively in comety to the law of the land. The constitutional mandate imposes an obligation on the State to ensure enforceability throughout the boundary of India of the orders passed by the Apex Court. Attempts to by-pass and circumvent the orders of the Court could never achieve any object of the State. On the contrary, it would certainly introduce an element of discontentment and frustration in its employees. In a large society like ours, the steps taken on behalf of the State to eliminate unnecessary litigation is essence of proper administration. The maxim boni judicis est causas litium dirimere even requires the Court to remove causes of litigation. Such maxim is indented to further the principle of precedents and is essential to maintain consistency in judicial pronouncements. The command in judgments which attain finality must not only appears to be respected, but should be enforced and implemented with respect as 'lex nil frustra jubet'.

11. State has pervasive obligations to discharge in relation to maintaining its expected standards of employer-employee relationship. As already noticed, one of the important facets of such obligations is to be reasonable and fair in granting service benefit to its employees in accordance with service rules and the principles enunciated on pronouncement of judgments by the Courts. When judgments attain finality to which the State is a party, duty is casted upon the State to grant relief to its employees who are similarly situated and on identical facts. Benefit of such approach are many and it causes no disadvantage to the interests of the State. It is not necessary for the State to require each one of its employees to approach the Courts of law for grant of a relief which

2024:PHHC:006821

*the State ought to grant to the employees in normal course of its administration, particularly, the cases of the kind afore-referred. Such principles is well known and accepted for years now. By referring to few judgments we would only predicate the principle with greater emphasis of its application in the day-to-day affairs of the State. In the case of **Dr. (Mrs.) Santosh Kumari v. Union of India and others, JT 1994(7) SC 565 : 1995(1) SCT 527 (SC)** the Hon'ble Apex Court held as under:-*

"The allotment of seats should go according to merit. It does not depend upon who comes to Court and who does not. The matter is one of principle and should not depend upon who comes to the court. A more deserving candidate may not have the means of approach the Court."

12 to 18. XXXX XXXX XXXX

19. Be that as it may, particularly in the afore-referred premises, we still feel that it is the bounden duty of the Court to issue the following directions to the State in the larger public interest and for proper administration of justice :-

(i) Wherever the rights of the parties have been settled by a judgment of the Court, the State has taken all remedies available to it in law against that judgment even upto the highest court of the land and the judgments has attained finality, then the State must accept the judgment and implement it in its true spirit and command. There is implicit obligation on the part or the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.

(ii) The State Government shall as expeditiously as possible in any case not later than four months re-act and respond to a legal notice/representation served upon it by any of its employees in redressal of his grievance/grant of

2024:PHHC:006821

relief, which has been granted to his coemployees similarly situated, in furtherance to the judgment of the Court. Unless, for reasons to be indicated in the reply, the State feels compelled to deny such relief. Needless to point out that denial must neither be evasive nor intended to circumvent the orders of the Court.

(iii) In the event such an employee is compelled to approach the court of law, whereupon the court awards interest and/or costs while allowing such a petition, then the expenditure incurred by the State including the costs/interest paid in furtherance to the orders of the Court should be recovered from the erring officer(s).

(iv) The concerned quarters of the Government are expected to work out the details in furtherance to the above directions and issue pervasive but definite instructions to all its departments forthwith to ensure compliance.”

16. The Hon’ble Supreme Court in **“State of Punjab and another vs Suresh Kumar Sharma”, 2010(4) SCT 490**, has held that when the State Government has accepted the decision rendered by the High Court in one case, the State Government has to adopt the same yardstick in the other similar cases as well, unless there are distinguishing factors or circumstances.

17. In view of the foregoing reasons, the present petitions are allowed and all the impugned order(s) passed by the respondents, are set-aside and a direction is issued to the respondents to grant pensionary benefits to the petitioner(s) under the Old Pension Scheme and necessary calculations of the amount of pensionary benefits be made and released, within a period of 04 months from the date of receipt of certified copy of this order.

2024:PHHC:006821

The amount already paid to the petitioner(s) under the New Defined Contributory Pension Scheme will be adjusted by the respondents while making the payments of the benefit under the Old Pension Scheme.

(NAMIT KUMAR)
JUDGE

30.01.2024
yakub

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