

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

CWP-3884-2017

Date of decision: 15.04.2024

JAGTAR SINGH AND ORS.

...PETITIONERS

VERSUS

STATE OF PUNJAB AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Arun Singla, Advocate for the petitioners.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Sahil, Advocate for

Mr. Nitin Kaushal, Advocate for respondent No.4.

Mr. Sanjay Tangri, Advocate for respondent No.5.

NAMIT KUMAR, J. (ORAL)

1. On the last date of hearing i.e. 29.02.2024, the following order was passed:-

The present petition has been filed by the petitioners, who are employees of the Municipal Council, Malout and have sought a writ of mandamus for directing the respondents to deposit their Provident Fund along with employers share for the period of April, 2013 to July, 2013, August 2014 and October, 2014 till date.

Learned counsel for the petitioners submits that the said action of the respondents is in violation of the instructions dated 11.06.2015, issued by the Directorate, Department of Local Government, Punjab, which reads as under:

“In regard to above said matter it is bring to the notice of this department that every month P.F. was deducted by the Municipal Councils/Nagar Panchayats at the time when the employee draws his salary but after deduction said amount was not got deposited in their P.F. accounts and this amount was used for other purposes, actually deducted amount of P.F. of the employees has to be deposited in their P.F.

accounts only. Similarly due to non-depositing of the amount of P.F. in the P.F. accounts of employees, employees usually went to Courts and department face litigation without any cause.

After consideration of above said matter it has been decided that whenever employees draws their salary, deducted amount of P.F. from the salary has to be deposited in their P.F. accounts on the date when the salary was drawn. In this regard, if in future, the amount of P.F. is not deposit in the P.F. account by any officer then concerned Executive Officer and Accountant shall be liable for this, proceedings under Rule 8 of Punjab Civil Services (Penal and Appeal) Rule 1970, shall be initiated against those.

These instructions are to be obeyed surely.

Sd/- Director, Local Government, Punjab.”

Separate replies have been filed on behalf of respondents No.4 and 5.

In the reply filed by respondent No.4, it has been stated that due to poor financial condition of the Municipal Council, Malout, it is unable to make any payment and if any payment is made by Municipal Council, Malout, then it would be difficult to pay the other employees, which would create lot of chaos in the Municipal Council, Malout.

In the reply filed by respondent No.5, it has been stated as under:-

“13. That in reply to the contents of para No. 13 of the Writ Petition, it is submitted that the office of the answering respondent received representation of Sh. Jagtar Singh, Sh. Tek Chand, Sh. Amar Chand and Sh. Harvinder Pal Singh through Additional Central P.F. Commissioner (Zone) Punjab and Himachal Pradesh, Chandigarh on 04.05.2016 vide Letter No.ACC/PB and HP/Complaints/CAIU. Vol- II/1130 Dated 27.04.2016 on the subject non deposits of EPF of its employees. Consequently, directions were issued to Sh. Deepak Singla, Enforcement Officer to conduct exhaustive investigation in respect of representation received through Additional Central P.F. Commissioner (Zone) Punjab and Himachal Pradesh, Chandigarh alongwith copy of Sh. Jagtar Singh, Sh. Tek Chand, Sh. Amar Chand and Sh. Harvinder Pal Singh. On 24.05.2016, Sh. Deepak Singla, Enforcement Officer submitted his report alongwith letter/statement of Executive Officer,

Municipal Council, Malout and Sh. Jagtar Singh, Sh. Tek Chand, Sh. Amar Chand.

As per statement of Executive Officer, Council, Malout, Non deposit of EPF by Municipal Council, Malout is related to regular employee of M.C. Malout and this complaint is not covered under EPF and MP Act 1952.

As per statement of Sh. Jagtar Singh, Sh. Tek Chand, Sh. Amar Chand (complainants) there is no relation of EPF with them.

As per instructions given by Head Office, New Delhi alongwith notification dated 08.01.2011, that this notification shall cover all employees of establishments as per definition under Section 2(f) of EPF and MP Act, 1952 excluding the employees who are getting benefits of PF and Pension according to rules of Govt. or Municipalities Laws etc.

As per report submitted by Sh. Deepak Singla, Enforcement Officer on the basis of reply of Executive Officer, Municipal Council, Malout and the complaints, the complainants are regular employees of Municipal Council, Malout and covered under the PF rules framed by the respective State Govt. Hence the provisions of EPF and MP Act are not applicable to the Petitioners.

Accordingly, reply was sent to Additional Central P.F. Commissioner (Punjab and Himachal Pradesh)."

Learned counsel for the petitioners submits that the grievance of petitioners No.1, 3 and 4 have already been redressed as they have got all the necessary benefits at the time of their retirement. Learned counsel for respondent No.4 seeks adjournment to get instructions from respondent No.4, with regard to the remaining petitioners.

Adjourned to 19.03.2024."

2. Learned counsel for respondent No.4 submits that the employer share of GPF of petitioner No.2 has been deposited.

3. In view of the above, the claim raised in the present petition has become infructuous.

4. Learned counsel for the petitioners submits that the petitioners are

a representation to respondent No.4 within a period of two weeks from today. If any such representation is made by the petitioners within two weeks, the same shall be considered and final decision on the said representation shall be taken by respondent No.4, within a period of two months thereafter.

5. Disposed of in above terms.

15.04.2024
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(NAMIT KUMAR)
JUDGE

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