IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-25798-2019
Date of Decision : 02.05.2024

SANJOGITA DEVI AND ANR …PETITIONERS

Versus

BHAKHRA BEAS MANAGEMENT BOARD AND ANR ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Naveen Daryal, Advocate
for the petitioners.

Mr. Tajender Joshi, Advocate and
Mr. Ram Pal Kohli, Advocate
for the respondent-BBMB.

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JAGMOHAN BANSAL, J. (Oral)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking directions to respondents to convert their status from Contributory Provident Fund (for short 'CPF') to Gross Provident Fund (for short 'GPF') Scheme.

2. The respondent by notification dated 14.01.2008 (Annexure P-6) introduced GPF Scheme. The respondent invited options from all the employees. It is apt to mention here that on a piece of paper, where many others had put their signatures, petitioner No.1 did not sign but petitioner No.2 signed against impression 'No'. They claim that they are illiterate women, thus, as asked by respondent, they signed. They could not understand the consequences.

The petitioners filed representation dated 11.08.2015 (Annexure P-1) requesting the respondents to permit them to change their option from CPF to GPF. The Executive Engineer, BBMB, Panipat, recommended their case and asked the higher authorities to change their option from CPF to GPF. The office of Superintending Engineer vide communication dated 01.10.2015 again requested head office to change option of petitioners from CPF to GPF. They retired from service as Peon w.e.f. 31.03.2016.

3. Mr.Naveen Daryal, Advocate submits that case of the petitioners is squarely covered by a Division Bench judgment of this Court in LPA No.1449 of 2013, decided on 14.05.2015 titled as "***N.P.Sharma vs. Haryana Power Generation Corporation Ltd. and others".*** In the said case, the Division Bench has set aside judgment of Single Judge and directed the respondents to allow the petitioners therein to switch over from CPF to GPF Scheme. The case of the present petitioners is on better footing. They requested the respondents to allow them to opt for GPF instead of CPF and jurisdictional authorities recommended their case to the head office.

4. Per contra, Mr. Tajender Joshi, Advocate submits that the petitioners were given option in 2008 and they did not avail benefit at that point of time. They could not be permitted to change option at this belated stage.

5. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

6. Concededly, the petitioners did not opt GPF Scheme in 2008, however, in 2015, while they were in service, requested the respondents to allow them to switch over from CPF to GPF. The jurisdictional authorities twice recommended their case to head office. The respondent has rejected their claim

on the sole ground that they did not opt for GPF in 2008. As pointed out by the counsel for petitioners, a Division Bench of this Court in ***N. P. Sharma's case (supra)*** has held that benefit of beneficial scheme should be extended to an employee. The said benefit cannot be denied on technical ground.

7. A Division Bench of this Court has set aside judgment of Single Judge who had dismissed writ petition on the ground of delay and laches. The relevant extracts of the judgment are reproduced as below :

> *5) There is no gain saying that claim for grant of pension is a continuous cause of action and it cannot be turned down being barred by delay or laches though equities can always be balanced between the parties.*
>
> *6) Adverting to the merits of the case, it is not in dispute that in the year 1986, the respondent-Corporation itself introduced a scheme whereunder the employees were permitted to switch over from CPF to Pension Scheme. This Court has also in a catena of decisions held that if a more beneficial scheme was introduced subsequently, the employees are entitled to avail the benefit of such Scheme though ensuring that whatever benefits have been drawn by them under the old scheme must be refunded with interest. One of such order dated 13.02.2012 passed by a learned Single Judge in the case of similarly placed employees of the respondent-Corporation has been relied upon by the appellant also (**Karta Ram Vs. State of Haryana and others**) CWP No.11430 of 1999 (Annexure P-3).*
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> *7) We are informed that the order Annexure P-3 has since been implemented and those employees have been allowed to switch over from CPF to pension scheme.*
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> *8) CWP No.15434 of 1997 decided on 18.08.2004 (**Ravi Dutt Mehta Vs. State of Haryana and others**) is also a similar instance where the employee was permitted to switch*

over from CPF Scheme to Pension Scheme. A similar direction was issued in ***__Randhir Singh Vs. State of Haryana and others__*** *by one of us (Surya Kant, J.) (CWP No.225 of 2009 decided on 07.07.2010) subject to the writ petitioner depositing the entire amount of CPF along with interest at the rate prescribed by the authorities.*

9) This very aspect was deliberated in ***__Jaswant Singh Chaudhary Vs. H.V.P.N.L. and others__*** *(CWP No.11209 of 2009) decided on 15.12.2011 against which Letters Patent appeal as well as SLP have also been dismissed.*

10) In the light of the above referred decisions, coupled with the Corporation's own policy, we see no reason to single out the appellant from the benefit of Pension Scheme merely because there has been delay on his part in approaching the Court, moreso when no prejudice would be caused to the respondents on account of such delay. Consequently, the Letters Patent Appeal is allowed. The order passed by the learned Single Judge is set aside and as a result the order dated 14.08.2012 passed by the Corporation is quashed with a direction that if the appellant deposits the entire amount of CPF received by him along with interest as per the rules/instructions applicable in the respondent-Corporation from time to time, the respondent-Corporation shall permit the appellant to switch over to the pension scheme. The arrears of pension shall be paid to the appellant within a period of three months from the date of deposit of the amount of the CPF of the appellant.

11) The respondent Corporation shall inform the appellant within two weeks from the date of receipt of certified copy of this order, the amount of CPF along with interest which is required to be deposited by the appellant.

8. Respectfully following the above-cited judgment, the respondents are hereby directed to permit the petitioners to switch over from CPF to GPF

Scheme. It is made clear that the petitioners would deposit benefits availed under CPF within 02 months from today along with interest @ 7.5% per annum.

9. The petition stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

02.05.2024
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Whether speaking/reasoned	*Yes*
Whether reportable	*Yes*