

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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(i) CWP-32156-2019
Date of Decision : 16.01.2024

Japinder SinghPetitioner

Versus

PEPSU and anotherRespondents

(ii) CWP-35659-2019
Date of Decision : 16.01.2024

Ranjodh SinghPetitioner

Versus

PEPSU and anotherRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Jagjit Singh, Advocate for
Mr. Gagneshwar Walia, Advocate
for the petitioner(s).

Mr. Anupam Singla, Advocate
for the respondents.

NAMIT KUMAR, J. (ORAL)

1. This order will dispose of the above mentioned both the petitions as the similar question of law and facts are involved therein.

Facts of the case are being taken from CWP-32156-2019.

2. The petitioner has filed the present writ petition impugning the order dated 02.08.2019 (Annexure P-8) whereby his claim for pension under the provisions of the PEPSU Road Transport Corporation Employees Pension/Gratuity and General Provident Fund Regulations,

1992 has been rejected on the ground that he has received all the

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benefits under the New Pension Scheme and from 1992 onward his CPF fund has been deducted regularly.

3. Learned counsel for the petitioner submits that the petitioner retired from service on 31.10.2015. Earlier, the petitioner along with other persons had filed CWP No.24129-2014 claiming the benefit of Old Pension Scheme under the 1992 Regulations. The present petitioner(s) were petitioner(s) No.27 and 28 in the said writ petition. The said writ petition was disposed of by this Court vide order dated 13.05.2019 and the following order was passed with regard to the present petitioners :-

“Before parting, Sh. Japinder Singh, who is the petitioner No.27 in CWP No.24129 of 2014 has appeared in person and states that he alongwith Sh. Ranjot Singh had duly submitted the option form, which has been recorded in the register at Sr. No.8941 dated 06.11.1992 and there was no loan outstanding against him and, therefore, their case is different as compared to the other petitioners in CWP No.24129 of 2014. Petitioner No.27 states that even petitioner No.28 Ranjot Singh had also submitted the form, which is duly registered in the Register form with respect of their submitting the option for opting pension scheme.

Counsel for the respondents very fairly states that in case of these two petitioners, the record will be verified again and an appropriate order will be passed in respect of their claim for the grant of pension under the 1992 Regulations. Counsel for the respondents states that in case it is found that petitioners No.27 and 28 in CWP No.24129 of 2014 have submitted their option forms, the pensionary

benefits will be granted to them and the same will be finalized within a period of two months.

In view of the above, the claim of the petitioner for the grant of pension under the 1992 Regulations is declined. Further, the prayer of the petitioner to be treated under the Punjab Civil Services Rules for the grant of pension by excluding the 1992 Regulations, is also declined. The action of the respondents in implementing the 1992 Regulations upon the petitioners and declining the grant of relief to the petitioner under the 1992 Regulations, is upheld.

The above mentioned writ petitions are dismissed with no order as to costs.”

4. Thereafter, the claim of the petitioner has been rejected vide impugned order dated 02.08.2019 (Annexure P-8).

5. Learned counsel for the petitioner contends that admittedly the petitioner had opted under 1992 Regulations and his option was also got registered in the receipt register at Sr. No.8941 dated 06.11.1992. The same was verified through the Receipt and Dispatch Branch and the same was sent to the Establishment Branch. However, the case of the respondents is that the said option is not in their record including the Service Book of the petitioner and he was getting monthly pension from the Commissioner Provident Fund without any protest. Learned counsel for the petitioner has placed reliance upon the judgment of Hon'ble Supreme Court passed in ***Calcutta State Transport Corporation and others Vs. Ashit Chakraborty and others : 2023 AIR (Supreme court)***

2270. He further submits that the petitioner is not at fault rather the fault

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is on the part of the respondents, therefore, the petitioner cannot be made to suffer.

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

7. Admittedly, the petitioner has submitted his option under 1992 Regulations for claiming the benefit of Old Pension Scheme. The same was also received in the office and was registered. If for the fault of the respondents, the same is not available in their record, the petitioner cannot be made to suffer on that account. In the earlier writ petition filed by the petitioner, it was agreed to re-consider the case of the petitioner and again the claim has been rejected by the respondents. The Hon'ble Supreme Court in somewhat similar case of ***Calcutta State Transport Corporation's case (supra)*** has considered the similar issue and held as under:-

“11. It is not in dispute that the respondent no.1 had exercised his right to receive pension under the 1990 Regulations in the year 1991. Thereafter, it was the duty of the Corporation to have given effect to the same. Merely because there were some wrong deductions from his salary and he was treated as member of the CPF Scheme, cannot be permitted to be raised as a ground to defeat his rightful claim. The pension was to start after retirement of the respondent. When the same was not released to him, immediately representation was made by him. As no response was received from the appellant, the writ petition was filed. The argument that there are number of similarly situated employees who will also stake their claims, will

not deter this Court in granting the relief to the respondent, which is legitimately due to him. Rather this argument shows that the Corporation was at fault in implementing the 1990 Regulations in the cases of number of employees though these were notified on 4.1.1991 and were given retrospective effect from 1.4.1984. Technical objections are sought to be raised, which are not tenable. For any fault on the part of the Corporation, the employees cannot be made to suffer.”

8. Keeping in view the above factual position and the law laid down by the Hon’ble Supreme Court in ***Calcutta State Transport Corporation’s case (supra)***, the present petitions are allowed. The impugned order(s) dated 02.08.2019 are set aside. The respondents are directed to grant the benefit of pension scheme under the 1992 Regulations and release the necessary pensionary benefits, after adjusting the amount already paid to the petitioners under the C.P.F. Scheme, within a period of 03 months from the date of receipt of certified copy of this order.

16.01.2024
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No