



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

246

CWP-10187-2022

Date of decision: 03.04.2025

Sanjeev Sharma

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Madhav Pokhrel, Advocate
for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing the letter dated 10.02.2022 it being reply to the legal notice rejecting the claim of the petitioner for grant of benefit of old pension scheme.
2. The petitioner had applied for appointment as Pharmacist pursuant to the advertisement issued in the year 2001, result of which has been declared in the same year, however he came to be appointed on 17.02.2006 pursuant to direction of this Court passed in CWP-4954-2003.
3. Subsequently the petitioner was given the appointment w.e.f. 03.12.2005 on his petition bearing CWP-4456-2009 having been allowed, whereby his claim was accepted regarding pay fixation and seniority from the date of appointment of the candidates, who were lower than him, which he was granted vide order dated 09.05.2011, Annexure P-11. However, he has still not been made amenable to the old pension scheme, regarding which reference is made to the order dated 15.07.2024 passed in **Sheeru vs. State of Punjab and another**, CWP-9893-2019, involving the same advertisement wherein this issue was decided by relying on the judgment in the case of



Hitesh Kumar and others vs. State of Haryana and others, CWP-18043-

2018, decided on 18.11.2022, the relevant paras of it read thus:-

“Learned counsel for the petitioner argues that in the present petition, the grievance raised by the petitioner that he is entitled for consideration of claim under the Old Pension Scheme, keeping in view of the fact that the post against which the petitioner was appointed, was advertised in the year 2001 vide Advertisement dated 26.06.2001 (Annexure P-1) and selection process was completed prior to 01.01.2004, when the New Pension Scheme was made applicable. Learned counsel for the petitioner further submits that merely respondent took time to issue appointment orders, in action on the part of the respondent will not take away the right of the petitioner.

Learned counsel for the petitioner further submits that the similar question of law qua the State of Haryana has already been decided by this Court while passing order in CWP No.18043 of 2018 titled as “Hitesh Kumar and others Vs. State of Haryana and others” and the present petition be also disposed of in the same terms.

Learned State counsel submits that once, the actual appointment is made after 01.01.2004, on which date, the New Contributory Provident Fund Scheme was operational, the same has rightly made applicable upon the petitioner though, the post against which the petitioner has been recruited, was advertised in the year 2001 and even the selection of the petitioner is prior 01.01.2004.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance. Once, it is a conceded fact that the petitioner was appointed on the post of which was advertised in the year 2001 and his selection was also made prior to 01.01.2004, when the New Defined Contributory Pensionary Scheme was made applicable, the petitioner is entitled to be considered under the Old Pension Scheme for the intents and purposes.

The question of law raised in the present petition has already been answered on the basis of the settled principle of law in Hitesh Kumar’s case (supra) and the learned State counsel has not been able to point out the differentiating fact in the case of the petitioner as compared to Hitesh Kumar’s case (supra). Keeping in view of the above, the present writ petition is also allowed in terms of CWP No.18043 of 2018 titled as “Hitesh Kumar and others Vs. State of Haryana and others.”

Ordered accordingly.”

4. Learned State counsel despite best efforts has not been able to controvert regards factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.



5. In view of the above, the present petition is disposed of in terms of **Sheeru** (supra).

(AMAN CHAUDHARY)
JUDGE

03.04.2025
Hemant

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