107 (6 cases) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:094672-DB

LPA-587-2021 (O&M)
Date of Decision: 29.07.2025

STATE OF HARYANA AND OTHERS …APPELLANTS

V/S

MOHINDER KAUR AND ORS …RESPONDENTS

CM-1747-LPA-2025
CM-1748-LPA-2025 in/and
LPA-682-2025

STATE OF HARYANA AND OTHERS …APPELLANTS
V/S
DR. S.P. GARG @ SURYA PARKASH GARG AND OTHERS
…RESPONDENTS

CM-632-LPA-2021 in/and
LPA-230-2021 (O&M)

STATE OF HARYANA AND OTHERS
V/S
A.S. MALHOTRA AND ORS

CM-68-LPA-2021 in/and
LPA-24-2021 (O&M)

STATE OF HARYANA AND OTHERS …APPELLANTS

V/S

SURAJ PARKASH BAJAJ AND ANOTHER …RESPONDENTS

LPA-588-2021 (O&M)

STATE OF HARYANA AND OTHERS …APPELLANTS

V/S

S.R. MADAN AND OTHERS …RESPONDENTS

LPA-599-2021 (O&M)

STATE OF HARYANA AND OTHERS …APPELLANTS

V/S

SUMAN BHATIA AND OTHERS …RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sanjeev Kaushik, Addl. AG, Haryana for the appellant(s).

Mr. K.L. Arora, Advocate for the respondents in LPA-587-2021 and LPA-682-2025.

Mr. Ranjit Saini, Advocate for the respondents in LPA-588-2021, LPA-599-2021 and LPA-230-2021.

Mr. Anil Rana, Advocate for the respondents in LPA-24-2021.

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<u>ASHWANI KUMAR MISHRA J. (Oral)</u>

<u>CM-1747-LPA-2025</u>

Delay of 210 days in re-filing of the appeal has been satisfactorily explained.

Accordingly, delay of 210 days in re-filing the appeal, is condoned.

CM stands disposed of.

<u>CM-1748-LPA-2025</u>

Delay of 219 days in filing of the appeal has been satisfactorily explained.

Accordingly, delay of 219 days in filing the appeal, is condoned.

CM stands disposed of.

<u>CM-632-LPA-2021</u>

Delay of 20 days in filing of the appeal has been satisfactorily explained.

Accordingly, delay of 20 days in filing the appeal, is condoned.

CM stands disposed of.

CM-68-LPA-2021

Delay of 293 days in filing of the appeal has been satisfactorily explained.

Accordingly, delay of 293 days in filing the appeal, is condoned.

CM stands disposed of.

MAIN CASES.

1. The issue involved in all the appeal is common, therefore, the same are dealt with together. The facts are being extracted from LPA-587-2021.

2. Issue raised in the present appeal relates to the liability of the respondents/writ – petitioners to deposit the employer contribution of contributory provident fund together with interest so as to enable them to the benefit of pension.

3. It is undisputed that the respondents were initially not covered under any pension scheme. The benefit of pension to privately managed educational institutions was allowed pursuant to a decision of the State by extending the application of Haryana Affiliated Colleges (Pension and Contributory Provident Fund) Rules, 1999 (hereinafter referred to as 'the Rules, 1999'). It is also undisputed that the entitlement to receive pension under the Rules, 1999 is dependent upon transfer of employees' share of provident fund. Rule 17 of the Rules, 1999, regulates this aspect of the matter, which reads as under:-

> "*17. Transfer of employee's contributory provident fund. sections 4 and 16.*
>
> *[(1) The employer's shall of Contributory Provident Fund alongwith interest earned per annum would be transferred to the*

Director.] [Substituted vide Haryana Notification No. GSR 2/HA.15/1979/Sections 4, 5 and 16/2001.]

(2)The amount of employer's share of contribution to the Contributory Provident Fund together with interest required to be refunded or actually refunded shall be recorded in the Service Book under proper attestation.

(3)The employees who have retired on or after coming into force of these rules and have already drawn the deployer's share of Contributory Provident Fund together with interest accrued thereon and they (or in case of death of such an employee, his legal heirs) are not in a position to refund the same in cash, may be allowed to adjust the same against the amount of gratuity or arrers of pension that may be admissible to them. In such cases, the employer's share of Contributory Provident Fund together with interest accrued thereon shall be refunded with twelve percent interest on the amount actually drawn, calculated from the date of drawal of the said amount to the date of refund or adjustment and if there still remains any due amount it will be adjusted by non-payment of pension till recovery of the total amount is adjusted.

(4)The date of drawal and refund of the amount of employer's share together with interest thereon shall be recorded in the service book and the entry shall be attested after verification by the Director. The concerned employee or their legal heirs, as the case may be, shall give an undertaking in writing to the effect that he has no objection to such recovery or adjustment.”

4. Learned counsel for the parties are in agreement that the liability of the appellants to pay interest would be such as is specified in Rule 17 (3) of the Rules, 1999. The language employed in Rule 17(3) of the Rules, 1999, indicates that the employer's shares of contributory provident fund together with interest accrued thereon shall be refunded with 12% interest on the amount actually drawn.

5. The liability of the employees to transfer such amount is a pre-condition for sanction of pension. The question raised before the learned Single Judge was as to whether the department can insist upon deposit of compound interest or simple interest is to be paid.

6. We have heard learned counsel for the parties and have perused the applicable rules which regulate the issue involved in the appeals.

7. The language of the rule is clear as it provides that the employer's share of contributory provident fund together with interest accrued thereon is to be refunded along with 12% interest. The amount of contributory provident fund is not to carry interest of 12% simplicitor. The liability of 12% would accrue upon the employer's contribution of contributory provident fund together with interest accrued thereon. It is this liability which would clearly arise upon the respondents for entitling them to payment of pension. On this aspect of the matter, learned counsel for the parties are not at issue.

8. In that view of the matter, we dispose of the appeals by providing that the State shall calculate the employer's share of contributory provident fund together with interest accrued thereon and upon such amount 12% interest would be charged. The judgment of the learned Single Judge

stands modified to the above extent and the appeals are disposed off accordingly.

9. All pending misc. application(s) also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(KULDEEP TIWARI)
JUDGE

29.07.2025
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No