IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16712-2022

Ram Abilakh Yadav ....Petitioner

Versus

State of Punjab and others ...Respondents

Reserved on: 26.11.2025
Pronounced on: 28.11.2025
Uploaded on: 28.11.2025

Whether only the operative part of the judgment is pronounced? *No*
Whether full judgment is pronounced? *Yes*

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sharwan Sehgal, Advocate and
Ms. Mehak Sharma, Advocate
for the petitioner.

Mr. Vikas Arora, DAG, Punjab.

<u>HARPREET SINGH BRAR, J.</u>

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of *Mandamus* directing the respondents to consider the option for pension exercised by the petitioner pursuant to the Punjab Government's letter dated 14.11.2011 (Annexure P-3) as a valid option. It is further prayed that the respondents be directed to release the petitioner’s monthly pension as well as the arrears of pension from the date of his retirement along with interest @ 18% per annum.

2. Learned counsel for the petitioner *inter alia* contended that the petitioner joined the service of the Municipal Corporation, Ludhiana (Respondent No.4) in the year 1979 in the capacity of a Beldar. He continued in

service and ultimately retired on 31.12.2018. The State of Punjab, in a welfare-oriented move, implemented the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994 (hereinafter referred to as 'the 1994 Rules') with effect from 01.04.1990. The aforesaid Rules were notified on 28.07.1994.

3. Rule 3 of the 1994 Rules stipulated that employees who were in service as on 01.04.1990 were to be given a four-month window to exercise their option to join the pension scheme. Employees appointed after 01.04.1990 were to be automatically covered under the pension scheme. Learned counsel submitted that the petitioner was never informed about the publication of the 1994 Rules and was never called upon to submit his option. Consequently, he had no occasion to exercise his choice within the stipulated period of four months.

4. Thereafter, the Government of Punjab issued a letter dated 14.11.2011 (Annexure P-3) wherein one more opportunity was granted to the employees to exercise their option for the pension scheme. Acting upon this letter, the petitioner submitted his option in favour of the pension scheme within the time frame indicated therein. However, being aggrieved by the non-release of his pension, the petitioner, through his counsel, served a legal notice dated 06.09.2021 (Annexure P-9) upon the respondents.

5. Learned counsel placed reliance on the judgments of this Court in ***Jagtar Singh and others vs. State of Punjab and others*** (***CWP No.18430 of 2013***), order dated 14.11.2014 (Annexure P-5); ***Raman Kapoor vs. State of Punjab and others*** (***CWP No.15266 of 2014***), order dated 11.07.2016 (Annexure P-6), which was upheld by the Division Bench in LPA No.2099 of

2016 vide order dated 20.07.2018 (Annexure P-7); ***Kailash Sethi and others vs. State of Punjab and others*** (***CWP No.25695 of 2016***), order dated 16.11.2019 (Annexure P-8). Reliance is further placed on the judgment of the two-Judge Bench of the Hon'ble Supreme Court in ***University of Delhi v. Shashi Kiran, 2022 (3) SCT 93***.

6. *Per Contra*, learned counsel for the respondents argued that the petitioner had maliciously concealed the material fact that he had duly exercised his option back in 1994 and had opted to remain out of the 1994 Rules. A copy of the petitioner's written option form (Annexure R-4/1) was produced to substantiate this contention.

7. It was further contended that the 1994 Rules do not permit the submission of a second or revised option and that the option once exercised thereunder is final and conclusive. Since the petitioner consciously chose to remain under the CPF scheme, he cannot, after several years and upon retirement, seek to claim the benefit of pension. The petitioner is also estopped by his own conduct, having voluntarily opted for the CPF scheme, continued to derive benefits thereunder throughout his service, and accepted the entire CPF amount along with interest without any protest at the time of retirement. Having acted upon such choice, he cannot now be permitted to resile and seek a contrary benefit.

8. Moreover, the letter dated 14.11.2011 (Annexure P-3) was merely a circulation of the minutes of a meeting and was never approved or implemented by the competent authorities of the Respondent-Corporation. Furthermore, the Government itself, vide letter dated 20.06.2012 (Annexure R-4/2), instructed the Corporation that implementing the executive decision dated

31.10.2011 would require a formal amendment to the statutory Pension Rules, 1994, which has never been carried out. Thus, the petitioner's second option was submitted without any statutory backing.

OBSERVATION & ANALYSIS

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

10. In the present case, it appears that the petitioner suppressed the material fact that he had already submitted his written option under the 1994 Rules (Annexure R-4/1), wherein he chose not to opt in favour of the said Rules. Consequently, the petitioner continued to avail the benefits of the Contributory Provident Fund scheme throughout his service. Learned counsel for the petitioner was unable to controvert the reliance placed on Annexure R-4/1. Moreover, a perusal of the 1994 Rules indicates that there is no provision permitting the submission of a second or revised option and, therefore, the option once exercised by an employee attains finality. Relevant portion of the 1994 Rules is reproduced as under:

> "***1. Short title and commencement and application.*** *- (1) These rules may be called the Punjab Municipal Corporation Employees Pension and General Provident Fund Rules, 1994*
>
> *(2) They shall be deemed to have come into force on and with effect from the first day of April, 1990 in the case of employees who are members of the provincialised Service of a Corporation, and in the case of employees who are members of a non-provincialised Service of a Corporation, they shall come into force from such date, as the concerned Corporation may, determine, by a resolution passed in this behalf.*
>
> ***(3) They shall apply to the employees of the Corporations, -***
>
> ***(i) who are appointed on or after the first day of April, 1990 on whole time regular basis; and***
>
> ***(ii) who were working immediately, before the first day of April, 1990***

on whole time regular basis and opt for these rules :

Provided that the employees who were working immediately before the first day of April, 1990 and who retired during the period between the first day of April, 1990 and the date of publication of these rules in the Official Gazette, shall have the option to opt for these rules within a period of four months from the date of publication of these rules, subject to the condition that they shall have to refund the Corporation's contribution towards their Contributory Provident Fund including interest thereon received by them together with simple interest on the whole amount at the rate of ten per cent per annum from the date of withdrawal to the date of repayment.

(4) They shall not apply to the employees, who *-*

(a) opt out of these rules;

(b) are members of All India Service or Punjab Civil Service;

(c) are paid out of contingencies;

(d) are work-charged employees;

(e) are employed after superannuation;

(f) are employed on contract basis, except when the contract provides otherwise; and

(g) are specifically excluded wholly or partly from the operation of these rules.

xx xx xx

3. Exercise of option. *- (1)* ***The option under clause (ii) of sub-rule (3) of Rule 1 to elect to be governed by these rules, shall be exercised in the Form appended to these rules so as to reach the competent authority within a period of four months from the date of publication of these rules in the Official Gazette*** *:*

Provided that, -

(a) in the case of an employee who on the date of publication of these rules was on leave, the option shall be exercised within a period of four months from the date of joining his duty after returning from leave;

(b) where an employee is under suspension on that date, the option shall be exercised within a period of four months from the date he joins his duty; and

(e) in case of an employee, who dies without exercising his option within the stipulated period, he shall be deemed to have opted for these rules;

(2) The employees, who opt for these rules, shall cease to avail the benefit of Contributory Provident Fund and the employees who opt out of these rules, shall continue to avail the benefit of Contributory Provident Fund."

(Emphasis supplied)

11. Pursuant to the letter dated 14.11.2011 (Annexure P-3), the petitioner submitted his option in favour of the pension scheme. However, vide letter dated 20.06.2012 (Annexure R-4/2), the Government of Punjab clarified that implementation of the executive decision dated 31.10.2011 would necessitate a formal amendment to the statutory 1994 Rules, which was never carried out. In any event, it must be observed that the letter dated 14.11.2011 was intended to provide a fresh opportunity only to those employees who had earlier failed to exercise any option. The petitioner, having already exercised his option to remain outside the pension scheme, does not fall within the ambit of the aforesaid letter. Relevant portion of the letter dated 14.11.2011 is reproduced hereunder:

"2. Regarding Pension Scheme:

Regarding all the workers/employees ***who could not exercise their option with regard to their pension in time****, it has been decided that those workers/employees who want to exercise their options regarding pension scheme, may exercise their options upto 31.12.2011."*

(Emphasis supplied)

12. Further, the reliance placed by learned counsel for the petitioner on the judgments of this Court in ***Jagtar Singh (supra)***, ***Kailash Sethi (supra)***, and ***Raman Kapoor (supra)*** is also misplaced. In those cases, the concerned employees, who had not exercised their option within the original four-month period, exercised their option for the first time in favour of the pension scheme when a fresh opportunity was granted pursuant to the executive decision dated

31.10.2011 (communicated vide letter dated 14.11.2011). In contrast, in the present case, as already noted, the petitioner had duly submitted his written option (Annexure R-4/1) whereby he consciously chose not to opt in favour of the 1994 Rules. The petitioner continued to derive benefits of CPF throughout his service, and accepted the entire CPF amount along with interest without any protest at the time of retirement.

13. Reliance placed by the learned counsel on the judgment of the Hon'ble Supreme Court in ***University of Delhi (supra)*** is also misplaced. The aforesaid judgment was rendered in context of a completely different set of facts and Rules. In that case, the Central Government employees who were governed by the Contributory Provident Fund were, on 06.06.1985, permitted to opt for the General Provident Fund and Pension Scheme ('GPF'). Subsequently, a notification was issued by the Central Government regarding the changeover of employees from CPF to GPF. The said notification, dated 1.5.1987, provided that all CPF beneficiaries who were in service on 01.01.1986 and continued in service would be ***deemed*** to have "come over" to GPF, unless they exercised a contrary option in writing by 30.09.1987 expressing their intention to remain under CPF. However, in the present case, there is no such deeming provision under the 1994 Rules. On the contrary, the 1994 Rules expressly require employees to positively elect to be governed by the said Rules, and such option is to be exercised strictly within a period of four months from the date of their publication.

<u>CONCLUSION</u>

14. In view of the discussion above, this Court does not find it

appropriate to invoke its extraordinary writ jurisdiction under Article 226 of the Constitution of India. Accordingly, the present petition stands dismissed.

15. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

28.11.2025
Neha

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