IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17831-2023

Yashpal ....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.

Ms. Jigyasa Kharbanda, Advocate for
Mr. Karanjit, Advocate
for respondent No.3.

HARPREET SINGH BRAR, J.

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 respondent-department to accept the petitioner's option for pension and grant him monthly pension under the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994 along with all consequential benefits.

FACTUAL BACKGROUND

2. Briefly stated, petitioner, Yashpal, joined the service of the

Municipal Corporation, Ludhiana, as a Sweeper on 23.08.1987. He continued in service and ultimately retired on 22.08.2017. 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. The petitioner did not submit any option form within this stipulated period of four months. Consequently, he continued to be a member of the Contributory Provident Fund Scheme throughout his service.

4. During his service, the petitioner availed of CPF benefits. As per the service record maintained by the respondents, he withdrew 90% of his CPF dues, amounting to ₹3,04,000/-, on 07.09.2016. Upon his retirement, he received a final payment of ₹11,12,724/-, which included Gratuity of ₹7,29,534/- and Leave Encashment of ₹3,83,190/-. He also received the final payment of his CPF, amounting to ₹5,10,222/-. However, almost five years after his retirement, the petitioner submitted an option form for grant of pension under the 1994 Rules on 03.10.2022 (Annexure P-1).

5. Having received no response to his option or to a subsequent legal notice dated 05.04.2023 (Annexure P-6), the petitioner has approached this Court.

CONTENTIONS

6. Learned counsel for the petitioner *inter alia* contended that the petitioner was never informed or given an opportunity to exercise his option for the pension scheme at the time of the promulgation of the 1994 Rules. Had he been properly informed about the pension scheme and its benefits, he would have undoubtedly opted for the same within the stipulated time. The failure of the respondents to intimate the petitioner about his right to opt for pension vitiates the process.

7. The learned counsel for the petitioner places heavy reliance on the judgment of this Court in ***Davinder Singh and others Vs. State of Punjab (CWP No.18381 of 2003, decided on 19.04.2010)***. Furthermore, it is submitted that the petitioner is ready and willing to refund the employer's share of the Contributory Provident Fund (CPF) contribution.

8. *Per Contra*, the learned counsel for the respondents argued that the present writ petition is liable to be dismissed on the ground of inordinate and unexplained delay and laches. The Pension Rules were notified in 1994 and provided a specific window of four months for exercising the option. The petitioner, however, remained silent for decades and chose to submit his option only in the year 2022, that too after his retirement. Moreover, after an inordinate lapse of 30 years from the date of notification, i.e., 28.07.1994, and more than seven years from the date of his retirement, the petitioner has approached this Court seeking grant of pension, thereby clearly demonstrating gross and unexplained delay.

9. It is submitted that the option to be exercised under Rule 3 of the 1994 Rules was a one-time, conclusive exercise. An employee who did not opt

within the four-month period was deemed to have chosen to remain under the CPF scheme. The petitioner, by his own conduct and inaction, consciously elected to continue with the CPF scheme. He cannot be permitted to resile from this position decades later, that too after having fully availed of all CPF benefits.

10. Furthermore, it was contended that the employees were fully aware of the 1994 Rules as they were published in the official gazette and were duly adopted by the Respondent-Corporation by passing a resolution dated 08.09.1994. It was submitted that there was no provision in the rules which mandated that every employee has to be intimated of the aforesaid Rules.

OBSERVATION & ANALYSIS

11. I have heard the learned counsel for the parties and have perused the record with their able assistance. A Coordinate Bench of this Court, in ***Davinder Singh and others v. State of Punjab (CWP No. 18381 of 2003, decided on 19.04.2010)***, dealt with an identical issue wherein the petitioners had failed to exercise their option within the prescribed period of four months due to lack of awareness of the applicable pension rules. This Court allowed the writ petition, and the said judgment was upheld in LPA No. 1192 of 2010 by a Division Bench vide order dated 21.04.2014. The order of the Division Bench was further assailed before the Hon'ble Supreme Court by way of a Special Leave Petition, which too was dismissed vide order dated 25.10.2017. Significantly, in ***Davinder Singh (supra)***, the petitioners therein were still in service when they agitated their claim under the 1994 Rules. Thus, there was no inordinate delay in approaching the Court.

12. Though the Respondent-Corporation was under an obligation to

ensure that employees were duly informed of the 1994 Rules and to provide necessary assistance in the exercising of the option of pension, the petitioner in the present case has agitated his claim after a prolonged and unreasonable delay. The petitioner, having remained silent throughout his service, submitted an option form or grant of pension under the 1994 Rules on 03.10.2022 (Annexure P-1), i.e., almost five years after his retirement. Before the submission of the aforesaid option form, the petitioner had already fully availed of all CPF benefits and accepted them without any protest.

13. It is trite law that the delay in approaching this Court under Article 226 of the Constitution of India may be condoned if sufficient cause is indicated or a reasonable explanation is provided for the same. However, the facts of the matter at hand indicate otherwise. Learned counsel petitioner has failed to specify any compelling or extenuating circumstance which prevented him from approaching this Court for such a long time. Reference in this regard may be made to the judgment rendered by a three-Judge Bench of the Hon'ble Supreme Court in ***Chairman/Managing Director, U.P. Power Corporation Limited and Others vs. Ram Gopal (2021) 13 SCC 225***, wherein, the following was held:

> *"16. **Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time.** Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. **Fence- sitters cannot be allowed to barge into Courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists**. On multiple occasions, it has been restated that there are implicit limitations of time within which*

*writ remedies can be enforced. In **SS Balu v. State of Kerala**, this Court observed thus:*

> *"17. **It is also well settled principle of law that "delay defeats equity". .... It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.**""* (emphasis added)

14. Further, in ***Mrinmoy Maity vs. Chhanda Koley and others 2024 AIR SC 2717,*** the Hon'ble Supreme Court has categorically observed that the High Courts must factor in the delay, while exercising its discretionary powers under Article 226 of the Constitution of India. It was further opined that undue and unexplained delay may be reason enough to dismiss a petition as indolent litigants ought not to be encouraged by writ Courts.

15. In ***State of Uttaranchal v. Shiv Charan Singh Bhandari, (2013) 12 SCC 179***, while considering the issue regarding delay and laches and referring to earlier judgments on the issue, a Two-Judge Bench of the Hon'ble Supreme Court opined that repeated representations made will not keep the issues alive. A stale or a dead issue/dispute cannot be got revived even if such a representation has either been decided by the authority or got decided by getting a direction from the court as the issue regarding delay and laches is to be decided with reference to original cause of action and not with reference to any such order passed. Delay and laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India, in a situation of that nature, will not be attracted as it is well settled that law leans in favour of those who are alert and vigilant.

CONCLUSION

16. 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.

17. 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