



111 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-19275-2024 (O&M)
Date of Decision : 08-01-2025

BALWINDER SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Puneet Gupta, Advocate for the petitioner.

 Mr. T.P.S Chawla, Sr. DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is qua the order dated 22.04.2024 (Annexure P-13) whereby the claim of the petitioner to be considered under the Old Pension Scheme has been rejected.

2. Learned counsel for the petitioner submits that the decision to appoint the petitioner on compassionate grounds was taken by the competent authority on 27.11.2003, copy of which has been appended as Annexure P-8 but the actual appointment letter was issued on 08.01.2004.

3. Learned counsel for the petitioner further submits that the claim of the petitioner to be considered under the Old Pension Scheme has been declined by the respondent only on the ground that keeping in view the

Instructions dated 02.03.2004, as the petitioner was appointed after 01.01.2004, the benefit under the Old Pension Scheme cannot be granted.

4. Learned counsel for the petitioner further submits that once, the decision had already been taken to appoint the petitioner in November, 2003 and the direction was also given by the competent authority to issue appointment order as well, merely that the respondent took more than one month to issue actual appointment order will not take away the right of the petitioner to be considered under the Old Pension Scheme.

5. Learned counsel for the petitioner further submits that where the selection process was concluded prior to 01.01.2004 but the appointments were made after the said date, this Court while passing order in bunch of petitions including CWP No.18043 of 2018 titled “**Hitesh Kumar and ors. Vs. State of Haryana and ors.**”, decided on 18.11.2022, has already granted the benefit to petitioners therein under the Old Pension Scheme has been granted by placing reliance upon the judgment of the Delhi High Court, which has been upheld by the Hon’ble Supreme Court of India in Writ Petition (Civil) 756 of 2020 titled “**Davinder Singh Brar Vs. Union of India**”, which judgment has already been upheld by the Hon’ble Supreme Court of India hence, the petitioner is also entitled for the grant of benefit under the Old Pension Scheme.

6. Learned counsel for the petitioner further submits that by placing upon the reliance upon the judgment in **Hitesh Kumar’s case (supra)** as well as **Davinder Singh Brar’s case (supra)**, benefit has also been given in CWP No.9893 of 2019 titled “**Sheeru Vs. State of Punjab and anr.**”.

7. Learned counsel for the respondent concedes the fact that the decision to appoint the petitioner was taken in November, 2003 by the competent authority much prior to the date when the New Pension Scheme was made operational i.e. 01.01.2004, but submits that as, the actual appointment order was issued on 08.01.2004, the said date is to be taken into consideration for adjudging the claim of the petitioner for the grant of New Pension Scheme or Old Pension Scheme hence, the petitioner has rightly been granted the benefit under the New Pension Scheme.

8. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

9. Once, the claim of the petitioner attained finality for the grant of appointment on 27.11.2003 as per the decision of the competent authority, and direction was given to issue the appointment order to the petitioner, the delay in issuing the appointment order prior to 01.01.2004 is attributable to the State of Punjab only. No explanation has come as to why, the appointment order was issued after a period of 1½ month of deciding to appoint the petitioner on compassionate ground. Further, in somewhat similar circumstances, the benefit has already been extended to the petitioner in *Hitesh Kumar's case (supra)* and *Sheeru's case (supra)*.

10. Learned counsel for the respondent has not been able to dispute the fact that where the selection process had already been over prior to the operation of the New Pension Scheme even though, the appointment order was issued thereafter, the benefit under the Old Pension Scheme cannot be denied as per the judgment in *Hitesh Kumar's case (supra)*.

11. Learned counsel for the respondent has not been able to point out any differentiating fact not to give the benefit of the judgment in ***Hitesh Kumar's case (supra)*** or ***Sheeru's case (supra)*** to the petitioner.

12. Keeping in view the above, as the claim of the petitioner for the grant of the appointment had already been finalised by the respondents prior to 01.01.2004 merely that the appointment order was issued thereafter, will not take away the right of the petitioner to be governed under the Old Pension Scheme.

13. Present petition is accordingly allowed and the respondents are directed to treat the petitioner under the Old Pension Scheme for all intents and purposes.

14. Pending application, if any, also stands disposed of.

08-01-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO