IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(125+264)

CM-2396-CWP-2025 ;
CM-2403-CWP-2025 in/and
CWP-28426-2019 (O&M)
Date of Decision : 01.04.2025

Ashok Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. M.K. Dogra, Advocate for the petitioners.

Mr. Malkiat Singh, Deputy Advocate General, Punjab.

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<u>Harsimran Singh Sethi J. (Oral)</u>

<u>CM-2396-CWP-2025</u>

Present application has been filed for placing on record the documents as Annexures P-10 to P-12 as well as for seeking exemption from filing certified copies of the same.

Application is allowed and the documents as Annexures P-10 to P-12 are taken on record with all just exceptions.

<u>CM-2403-CWP-2025</u>

As the main case is listed for today, the present application seeking early hearing of the petition has become infructuous.

<u>CWP-28426-2019</u>

1. In the present petition, the claim of the petitioners is that they are entitled for the grant of benefit of ex-gratia envisaged under the Special

Volunteer Retirement Policy which was enunciated on 21.05.2003 (Annexure P-2) by Department of Personnel, Government of Punjab but the total benefits provided in the said Policy for which benefits the petitioners are entitled for, have not been given to them.

2. Learned counsel for the petitioners submits that as per the order dated 11.04.2019 (Annexure P-3) passed by the Executive Engineer, Division Ranjit Sagar Dam Project, the calculation which has been done by the respondents qua the ex-gratia amount petitioners are entitled to, is not correct though calculation qua each of the petitioner with regard to their entitlement has been given in the impugned order.

3. Learned counsel for the petitioners submits that as per the Policy dated 21.05.2023 (Annexure P-2), the petitioners are entitled for the benefit of ex-gratia for a period of 35 days for each completed year whereas, the petitioners have only been given the benefit of ex-gratia for 250 days, which period is much less than the period which comes to the credit of the petitioner in case the total length of service rendered by the petitioners is taken into account @ 35 days per year so as to calculate the benefit of ex-gratia. Learned counsel submits that the petitioners should be given the benefit of ex-gratia they are entitled to as per Clause (b) of the Policy dated 21.05.2023 (Annexure P-2).

3. Upon notice of motion, the respondents have filed the reply, wherein, the respondents have stated that the claim of the petitioners has been considered in accordance to the Policy dated 21.05.2003 (Annexure P-2) and Clause (b) of the said Policy though recites that ex-gratia amount is to

be calculated equivalent to the basic pay + Dearness Allowance for the number of days worked on the basis of length of service @ 35 days for each completed year and 25 days for the remaining year but the same is also subject to the further condition that the total number of days so as to calculate benefit of ex-gratia will not exceed 250 days. Learned counsel for the respondents submits that the claim of the petitioners has been considered in accordance to the Sub Clause (iii) of Clause (b) of the Special Volunteer Scheme dated 21.05.2003 (Annexure P-2) and as such the calculation qua their entitlement of the benefit has been done and the amount due to them has been paid hence, the ex-gratia for which the petitioners are entitled for have already been extended to them.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. Clause (b) of the Policy dated 21.05.2003 (Annexure P-2) which is applicable in the present case, is as under :-

> *"(b) An optee of Special VRS will be entitled to receive an ex-gratia amount equal to basic pay plus dearness allowance for the number of days worked out on the basis of length of service @ 35 days for each completed year and 25 days for each remaining year. For any part of a year, the number of days for ex-gratia amount, will be worked out on the basis of 365 days in a year. The ex-gratia amount will be further subject to the following conditions :-*
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> *i) Total number of years to be counted for payment of ex-gratia will not exceed 33 years ;*

ii) No weightage of additional service will be given for the purpose of calculation of ex-gratia;

iii) The ex-gratia will be subject to a minimum of ₹25,000/- or 250 days emoluments, whichever is higher;

iv) The ex-gratia amount should be exceed the sum of the basic pay plus DA that the employee would draw at the prevailing level for the balance of the period of service left before superannuation;

v) The ex-gratia amount will be paid in lump sum;

vi) The ex-gratia amount upto ₹5,00 lacs will exempted from Income Tax on the pattern of Government of India."

6. A bare perusal of the above Clause (b) of the Policy would show that a maximum cap has been fixed for the grant of ex-gratia to the tune of 250 days. Once, the maximum cap has been fixed @ 250 days and the benefit of 250 days so as to calculate the amount has already been granted to the petitioners, which fact goes undisputed, therefore, it can be safely be held that the petitioners have been given the benefit as admissible to them under the Policy dated 21.05.2003 (Annexure P-2).

7. The argument of learned counsel for the petitioners is that the petitioners should be paid the ex-gratia by counting 35 days for each completed year is not correct. A bare perusal of Clause (b) would show that the said condition of 35 days for each completed year is further subject to the condition that the maximum number of days so as to calculate the ex-gratia amount will not be more than 250 days. A harmonious reading of the Policy

envisages that a maximum of 250 days has to be taken into account for calculating the ex-gratia amount.

8. No other argument is raised.

9. Keeping in view the above, no ground is made out for any interference by this Court in the present petition.

10. Dismissed.

11. Pending miscellaneous application, if any, also stands disposed of.

April 01, 2025 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No