

114

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.3260 of 2024(O&M)
Date of Decision: 20.01.2025

Sukhjit Singh

...Appellant

Versus

Punjabi University, Patiala and others

...Respondents

LPA No.3274 of 2024(O&M)

Asha Rani Kalra & others

...Appellants

Versus

Punjabi University, Patiala & others

...Respondents

LPA No.3344 of 2024(O&M)

Shingara Singh & others

...Appellants

Versus

Punjabi University, Patiala & others

...Respondents

LPA No.3349 of 2024(O&M)

Taranjit Singh & others

...Appellants

Versus

Punjabi University, Patiala & others

...Respondents

LPA No.3351 of 2024(O&M)

Meena Jagota @ Meena Ghai

...Appellant

Versus

Punjabi University, Patiala & others

...Respondents



LPA No.3374 of 2024(O&M)

Harkrishan Kaur Kang & others

...Appellants

Versus

Punjabi University, Patiala & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Gaurav Datta, Advocate
for the appellants.

Mr. Abhishek Kaushik, Advocate
for respondent-Punjabi University.

* * * *

SANJEEV PRAKASH SHARMA J.(Oral)

CM-8042-LPA-2024 in LPA-3260-2024

CM-8085-LPA-2024 in LPA-3274-2024

CM-8266-LPA-2024 in LPA-3344-2024

CM-8280-LPA-2024 in LPA-3349-2024

CM-8283-LPA-2024 in LPA-3351-2024

CM-8337-LPA-2024 in LPA-3374-2024

For the reasons mentioned in the abovesaid applications, the same are allowed and the delay of 23 days in filing these appeals are condoned.

Main cases

These appeals are taken up together as common question of law and facts is involved therein.

2. These are the appeals assailing the judgment passed by learned Single Judge dated 21.10.2024, whereby the writ petitions preferred by the appellant(s) were dismissed.

3. Learned counsel appearing for the appellants-writ petitioners submits that the judgment passed by Hon'ble the Supreme Court in

***University of Delhi vs. Smt. Shashi Kiran and Ors., 2022(15) SCC 325***

ought to have been taken into consideration for granting the same relief as granted by the Delhi High Court and affirmed by Hon'ble the Supreme Court whereby 75 teachers working with University of Delhi, were given benefit of switching over the pension scheme although they had initially opted for the CPF scheme.

4. We have considered the submission and also the judgment passed in ***University of Delhi*** (*supra*) as well as the judgment passed by the learned Single Judge. We find that the learned Single Judge has taken into consideration the judgment of Apex Court in ***University of Delhi*** (*supra*). It is to be noticed that the pension scheme was introduced by the University initially w.e.f. 01.04.1990 and Clause-2 of the Pension Scheme stated as under:-

“2. All whole time paid employees who were beneficiaries under the existing scheme of CPF (Contributory Provident Fund) except those appointed on contract basis, who on attaining the age of retirement indicated in Statue 38, retire on or after 1.4.1990, shall be entitled to the benefit of Pension Scheme including Pre-mature Retirement Pension, Commuted Pension etc. and Family Pension to eligible persons in case of death of employee on or after 01.4.1990, unless they specifically opt out in writing to continue under the CPF Scheme.”

5. It is an admitted position that all the appellants specifically opted in 1990 to continue under the CPF Scheme and therefore, they were placed under the CPF scheme while the other employees were placed under the pension scheme. The corollary would be that the appellants did not



deposit anything in relation to the pension scheme. Clause-8 of the Pension Scheme also specifically stated that the option once exercised shall be final. Learned counsel for the appellants submits that the appellants are ready to deposit back the contribution of contributory provident fund and they should be given further option. The law in this regard is settled, once the options are given to an employee it is for him to choose whichever course he may take for his future pension or retiral benefits. Once he has chosen to remain under the CPF scheme he cannot be allowed to change the same unless option is given to all the employees afresh by the concerned employer.

6. As per the record, respondent No.1-University had given further five chances to opt for pension scheme to the CPF optees but so far as the appellants are concerned, they did not choose to shift to the pension scheme. Now after the option period is over, fresh option cannot be directed to be given to them by this Court as the same would amount to changing the policy decision of the concerned employer. The learned Single Judge therefore cannot be said to have erred in rejecting the claim of the appellants.

7. In the case *University of Delhi (supra)*, we find that the Supreme Court has passed the judgment in the facts of the concerned case alone as can be seen from tenor of the order where it states as under:-

24. According to the notification dated 01.05.1987, the employees joining the service after 01.01.1986 would always be under GPF. With respect to those who were in service on 01.01.1986, said employees would be deemed to have “come over” to GPF unless an option to continue to be under CPF was consciously exercised



before the cut-off date. Thus, when the Scheme was framed and was sought to be implemented, the concerned authorities must have taken into account the entire magnitude such as, the number of employees and the likelihood of impact on the management of the fund, so that reasonable returns can be effected by way of pension upon retirement of such persons. Going by the intent of the notification, those who were to opt for CPF, were an exception and the general rule was that everybody after 01.01.1986 would normally be covered by GPF. It is in this context that the number of original petitioners in Shashi Kiran batch of cases has to be seen. We are concerned with only 75 persons. On the other hand, the bulk of people namely 2469 employees were granted the choice of reverse switchover and they were allowed all the benefits under GPF. It can reasonably be said that when the notification dated 01.05.1987 was issued, the authorities were conscious of the possibility that all its employees may 'come over' to GPF. With that possibility in mind, the fund was constituted and the affairs were arranged. The shift of those 75 employees would not in any way affect the strength and the character of the fund if a direction that the entire contribution made by the authorities be returned with reasonable rate of interest is issued. These 75 petitioners had approached the Court in the year 2010. At this length of time, it is not as if any floodgates are going to open and there will be drain on the resources of the State. A direction can, therefore, be issued, as was done by the learned Single Judge in paragraph 20 of his Judgment in R.N Virmani batch of cases and which aspect was mentioned in the letter dated 23.01.2017 referred to in paragraph 8 hereinabove, for



recouping the contribution under CPF with 8% simple interest per annum.

25. Considering the circumstances on record, in our view, the decision rendered by the Division Bench of the High Court in Shashi Kiran batch of cases does not call for any interference except to the extent of direction for recouping of the contribution under CPF with 8% simple interest per annum. It is possible that at this length of time, some of the employees in Shashi Kiran batch of cases may not be interested in switchover to GPF. But an option must be afforded to them in such manner as the authorities deem appropriate.”

8. We would however have no such powers to give an additional benefit to the appellants by exercising the power under Article 226 of the Constitution of India. We, therefore, find no error in the order passed by the learned Single Judge. All these appeals are found without merits and accordingly, the same are dismissed.

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

(SANJEEV PRAKASH SHARMA)
JUDGE

January 20, 2025
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No