



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

**CM-1484-LPA-2025 in/and
LPA-3334-2024 (O&M)
Date of Decision: February 24, 2025**

.....Appellants

Versus

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. R.S. Pandher, Sr. DAG, Punjab.

Mr. Baljeet Singh Sidhu, Advocate for respondents.

Mr. Anshul Pareek, Advocate for
Mr. Saurav Verma, Advocate
for applicant/proposed appellant No. 4 in CM-1484-LPA-2025.

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LISA GILL, J.

CM-1484-LPA-2025

1. Applicant seeks impleadment as appellant No. 4 in the present appeal in his personal capacity, though already impleaded as appellant No. 2 in his official capacity.

2. Learned counsel for non-applicants do not raise any objection thereto.

3. Accordingly, application is allowed and applicant is impleaded as appellant No. 4. Amended memo of parties is taken on record, subject to just

exceptions. Same be scanned by Registry.

LPA-3334-2024 (O&M)

1. Prayer in this appeal is for setting order dated 25.11.2024 whereby CWP-10463-2013 filed by respondents (writ petitioners) has been allowed. Respondents (writ petitioners) were held entitled for grant of pensionary benefits under Old Pension Scheme as they were selected pursuant to advertisement dated 23.06.2001 and appointed on 26.12.2003. Joining time of 90 days was given and they joined service on 08.01.2004.

2. Stand taken by appellant/Department was that in terms of instructions dated 13.11.2013 issued by Finance Department of State of Punjab, writ petitioners would be placed under New Defined Contributory Scheme as they had joined after 01.01.2004 and were not entitled to pensionary benefits under Old Pension Scheme.

3. Learned Single Bench considered the facts and circumstances, as well as notification dated 02.03.2004, whereby Punjab Civil Services Rules were amended providing that Part-I-Pensions (Volume II) of Rules called Punjab Civil Services Rules (Volume II) shall not apply to Government employees, who were appointed to the posts as detailed, on or after 01.01.2004 and they shall be covered by the New Defined Contributory Pension Scheme. Judgment of Delhi High Court in W.P. (C) 756/2020 (**Dr. Davinder Singh Brar vs. Union of India and others**) decided on 28.01.2020, which was upheld by Hon'ble the Supreme Court was discussed as well as decision dated 15.07.2004 in CWP-9893-2019 (**Sheeru vs. State of Punjab and another**), to hold that writ petitioners had admittedly been appointed on 26.12.2003, therefore, merely by virtue of their joining on 08.01.2004 their right to be governed under Old Pension Scheme cannot be defeated.

4. Learned Single Bench further took note of the fact that learned counsel for State had sought instructions from ARE office of Director School Education(S) in the given factual matrix for grant of relief to the writ petitioners but Director Public Instructions (SE), Punjab was adamant that writ petitioners are not entitled for any relief. Learned Single Bench, thus, allowed the writ petition with costs of Rs.1,00,000/- to be deposited by Director Public Instructions (SE), Punjab from his/her own pocket, not to be reimbursed under any circumstances and to be disbursed in equal share to the Haryana State Legal Services Authority as well as Punjab State Legal Services Authority.

5. Learned counsel for State at the outset submitted that relief claimed in this appeal may be restricted to aspect of imposition of cost of Rs.1,00,000/- by learned Single Bench, to be deposited by DPI(SE) from his/her own pocket.

6. Learned counsel representing appellant No. 4 submits that stand taken was not due to any malafide intent but on account of instructions dated 13.11.2013 which were attached as Annexure R1 issued by Finance Department and as conveyed to him by the Department of Education. It is further submitted there is complete absence of any deliberate wrong doing on his part and an unconditional apology is submitted, in case, it was so considered by the Court and that he would remain more careful in future. No serious objection has been raised by learned counsel for respondents (writ petitioners).

7. It is pertinent to note that issue at hand is squarely covered in favour of respondents (writ petitioners). In such scenario, instructions issued by the Department which are in direct contravention to judicial order cannot

hold the field and in case of any doubt arising with the Officer concerned who undoubtedly holds a responsible position, it was incumbent upon him to take up the matter with concerned quarters and take necessary steps instead of taking an obstinate stand. Unnecessary litigation which is perpetuated by this kind of stand by Officers can easily be avoided. We, however, take note of the unconditional apology as submitted before us as well the assurance that Officer would remain more vigilant and careful in future, the same is accepted and in the given factual matrix, we consider it appropriate to reduce the cost of Rs.1,00,000/- as imposed vide impugned order to Rs.10,000/-. Same will be deposited by appellant No. 4 from his/her own pocket, not to be reimbursed.

- 9. Keeping in view the facts and circumstances as above, impugned order dated 25.11.2024 is upheld with modification as above in the quantum of cost imposed upon the concerned Officer.
- 10. Appeal is, accordingly, disposed of.
- 11. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

(ALOK JAIN)
JUDGE

February 24, 2025
Rts

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