

CWP-7703-2022

2026:PHHC:078551



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

CWP-7703-2022

Kamaljeet Singh

.....Petitioner

VERSUS

State of Punjab and others

..Respondents

Reserved on: 07.04.2026

Pronounced on: 19.05.2026

Uploaded on: 19.05.2026

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. Amit Kaith, Advocate for the petitioner.

Mr. Vikas Sonak, AAG Punjab-State.

Mr. D.K. Singla, Advocate for respondent No.2.

Mr. Sarthak Gupta, Advocate for respondents No.3 and 4.

HARPREET SINGH BRAR, J.

1. The present petition has been filed under Articles 226 and 227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of impugned orders dated 27.10.2021 and 02.12.2021 (Annexures P-10 and P-11, respectively) whereby his claim for pension and other pensionary benefits was rejected. Further praying for issuance of a writ in the nature of *mandamus* directing respondent No.2 to release the pension and other pensionary benefits to petitioner from the date

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of his superannuation i.e. from 30.06.2016 along with interest at the rate of 12% per annum.

FACTUAL BACKGROUND

2. The petitioner was appointed with respondent No.3- Punjab Water Supply and Sewerage Board (hereinafter 'Board') as a Rigman on 09.10.1980, though the designation was changed to 'Pump Operator,' subsequently. His services were regularised vide order dated 29.02.1991 (w.e.f. 06.12.1990). He was also promoted to the post of Junior Technician.

3. Respondent No.2-Municipal Council, Kharar (hereinafter 'Council') passed a resolution dated 06.05.1998 (Annexure P-1) whereby the maintenance work carried out by the Board was taken over by the Council. Thereafter, vide resolution dated 30.05.1998 (Annexure P-2), the permanent employees of the Board, including the petitioner, forming a part of the maintenance staff, were also absorbed by the Council. The same was also sanctioned by Director, Local Bodies on 08.10.1998 (Annexure P-3). Accordingly, the petitioner started working for the respondent-Council w.e.f. 24.04.1998, on a regular pay scale.

4. The petitioner retired from the respondent-Council on 30.06.2016, upon attaining the age of superannuation. However, he was not granted any pension or pensionary benefits. Aggrieved by the same, the petitioner moved several representation but to no effect. He also served a legal notice dated 10.03.2021 (Annexure P-8) upon the respondent-Council agitating his claim. The petitioner had also filed a civil suit, however, it was

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dismissed as withdrawn vide order dated 31.05.2021 (Annexure P-7) passed by learned Civil Judge. He further moved this Court by filing **CWP No.17705 of 2021** which was disposed of vide order dated 09.09.2021 (Annexure P-9) with a direction to decide the legal notice (Annexure P-8). In compliance with the same, Executive Officer of the respondent-Council passed an impugned speaking order dated 27.10.2021 (Annexure P-10) denying the claim of the petitioner. This order was subsequently amended and impugned speaking order dated 02.12.2021 (Annexure P-11) was passed by the Executive Officer vide which the claim of the petitioner for pension and pensionary benefits was denied albeit for different reasons than those recorded in order dated 27.10.2021 (Annexure P-10).

CONTENTIONS

5. Learned counsel for the petitioner contended that the petitioner worked with the respondent-Board till 28.04.1998. Thereafter, he was duly absorbed in the respondent-Council vide resolution No.29 dated 30.05.1998 (Annexure P-3). The said decision also received sanction of the Director, Department of Local Government on 08.10.1998 (Annexure P-3). However, in spite of rendering a total service of 34 years 08 months and 20 days, the claim of the petitioner for pension and pensionary benefits has been denied by the respondent-Council. The service rendered by the petitioner in the respondent-Board deserves to be counted towards qualifying service, in terms of Rule 2(k) of the Rules of 1994. He further submitted that initially, vide impugned order dated 27.10.2021 (Annexure P-10), the claim of the

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petitioner was denied stating had not exercised the option or made the necessary contributions, as necessitated by the Punjab Municipal Employees Pension and General Provident Fund Rules, 1994 (hereinafter 'Rules of 1994'), to be entitled to pension from the respondent-Council. Surprisingly, two months later, an order dated 02.12.2021 (Annexure P-11) is passed, amending order dated 27.10.2021 (Annexure P-10), whereby the claim of the petitioner was still denied, however, for the reason that he is an employee of the respondent-Board and not the respondent-Council, as he had made contributions to the Board towards the CPF.

6. Learned counsel argued that the petitioner has been recognised as an employee of the respondent-Council since his absorption in the year 1998. Moreover, the respondent-Board (Annexure P-4) transferred the CPF amount with respect to the petitioner, to the respondent-Council, as the petitioner was now employed with the Council, as evidenced by Annexures P-4 and P-5. In fact, the said amount was further transferred to the account of the petitioner vide cheque dated 29.02.2012 by the respondent-Council.

7. Further still, the Rules of 1994 came into force in the year 1990 and as per Rule 1(3)(i) thereof, these Rules shall automatically apply on those hired on or after 01.04.1990. Since the petitioner joined the service of the respondent-Council in the year 1998, he did not need to exercise an option to be covered by Rules of 1994. As such, he cannot be denied pension and pensionary benefits for a failure to indicate option. Further, the respondent-Board had transferred the CPF amount accrued to the petitioner,

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to the respondent-Council. Thus, it was the responsibility of the respondent-Council to make the necessary changes and grant service benefits to the petitioner. Additionally, the petitioner had a legitimate expectation for grant of pension and other retiral benefits as the respondent-Council is a pensionary establishment. However, the respondent-Council neither informed the petitioner regarding the need to exercise an option, nor did it serve any demand notice upon him to make the requisite contributions, rather the CPF amount was transferred to his account vide cheque dated 29.02.2012. Learned counsel submitted that the petitioner is ready to refund the amount pertaining to the contribution of the employer in the CPF.

8. *Per contra* learned counsel for respondent-Council submits that the petitioner retired in the year 2016 and only agitated his claim for pension and pensionary benefits 05 years later in the year 2021 by serving a legal notice. Thus, the petitioner has not approached this Court in a timely manner and on this ground alone, the present petition deserves to be dismissed. Further, the petitioner is the employee of the respondent-Board as he deposited the requisite amount towards CPF with it. Accordingly, the petitioner will be covered by the applicable service rules upon the respondent-Board, which do not provide for pension. Also, the CPF amount has already been released to the petitioner, which he accepted without protest. In doing so, he has waived off his rights towards receiving pension from the respondent-Council. Learned counsel further argued that the petitioner has anyway not exercised an option to be covered by the Rules of

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1994, as such, he has no right to claim any pension or pensionary benefits from the respondent-Council. Lastly, he submitted that as per letter no.17/2/80-1FPIII/9485 dated 14.05.1986 mentioned under Rule 3.17A Punjab Civil Services Rules Volume II requires that an option be exercised for pension within 01 year of absorption and CPF amount with interest be transferred to the new organisation. Since the petitioner has done neither, the respondent-Council is not liable to provide pension and pensionary benefits to him.

9. Learned counsel appearing on behalf of respondent No.3 and 4-Board submits that the respondent-Board is a non-pensionary establishment and no relief has been claimed from it. Further still, Annexures P-1 to P-5 make it evident beyond doubt that the petitioner is the employee of the respondent-Council.

OBSERVATION AND ANALYSIS

10. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner was initially hired as a Rigman with the respondent-Board on 09.10.1980 and his services were regularised on 29.02.1991, w.e.f. 06.12.1990. Subsequently, the maintenance work undertaken by the respondent-Board was taken over by the respondent-Council vide resolution No.14 dated 06.05.1998 (Annexure P-1). Another resolution bearing No.29 dated 30.05.1998 (Annexure P-2) was passed by the respondent-Council whereby the petitioner, amongst other permanent staff, were also absorbed from the respondent-Board. A perusal

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of letter dated 08.01.1998 (Annexure P-3) sent by the Additional Director (J), Directorate, Local Government to the Executive Officer of the respondent-Council clearly indicates that salary of 03 permanent employees, including the petitioner, was duly sanctioned. Furthermore, the letters dated 03.04.2006 (Annexure P-4) and dated 27.08.2007 (Annexure P-5) sent to the Executive Officer by the respondent-Board clearly indicates that the petitioner was considered to be an employee of the respondent-Council and accordingly, Rs.1,66,234/- on account of CPF of the petitioner was released to the Council. As such, there is nothing on the record to substantiate the stand taken by the respondent-Council that the petitioner is not its employee.

11. Further still, the argument of the respondent-Council regarding failure of the petitioner to exercise option is liable to be rejected. The relevant provisions of the Rules of 1994 are reproduced below:

“Rule 1. Short title, commencement and application.

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xxx

xxx

(3) They shall-apply to the employees of the Committees-

(i) **who are appointed on or after the first day of April, 1990 on whole time regular basis; and**

(ii) *who were working immediately before the first day of April, 1990 on whole time regular basis and **opt for these rules.***

Provided that the employees who were working immediately before the first, day of April, 1990 and who retired during the period between the first day of April, 1990 and the date of publication of these rules in the Official Gazette, shall have the option to opt for these rules within a period of four months from the date of publication of these rules, subject to the condition that they shall have to refund the Committee's contribution made towards their Contributory Provident Fund including interest thereon received by them, together with simple interest on the whole amount at the rate of ten per cent per annum from the date of withdrawal to the date of repayment.

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- (4) They shall not apply to the employees, who,
- (a) opt out of these rules;
 - (b) are members of All India Service or the Punjab Civil Service;
 - (c) are paid out of contingencies;
 - (d) are work-charged employees;
 - (e) are employed after superannuation;
 - (f) are employed on contract basis, except when the contract provides otherwise; and
 - (g) are specifically excluded wholly or partly from the operation of these rules

Rule 2. Definitions.

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(j) '**Qualifying service**' means the **service rendered under a committee for which an employee is paid from the municipal fund and shall include any service rendered under the Government of Punjab, an Improvement Trust, a Corporation or any other Public Sector Undertaking immediately before joining the service**

Rule 3. Exercise of Option.

(1) The option under clause (ii) of sub-rule (3) of rule 1 to elect to be governed by these rules, shall be exercised in the Form appended to these rules so as to reach the competent authority within a period of four months from the date of publication of these rules in the Official Gazette :

Provided that

- (a) in the case of an employee who on the date of publication of these rules was on leave, shall be exercised within a period of four months from the date of joining his duty after returning from leave;
- (b) where an employee is under suspension on that date, the option shall be exercised within a period of four months from the date of his returning to duty, and
- (c) in case of an employee who dies without exercising his option with the stipulated period, he shall be deemed to have opted for these rules.

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(2) The employees, who opt for these rules, shall cease to avail the benefit of Contributory Provident Fund and the employees who opt out of these rules, shall continue to avail the benefit of Contributory Provident Fund.”

(emphasis added)

12. Admittedly, the petitioner was a regular employee of the respondent-Board. Further, he joined the respondent-Council in the year 1998, long after the Rules of 1994 had come into force. As such, by virtue of Rule 1(3)(i), these Rules ought to apply automatically to the petitioner, i.e. without any requirement for exercising an option. Notably, Rule 1(3)(ii) clarifies that only the employees who were working with a Municipal Committee prior to 01.04.1990 were required indicate their preference regarding being governed by the Rules of 1994.

13. This Court was faced with a similar controversy in ***CWP No.23325 of 2021*** titled as ***Jatinder Pal Singh Grewal vs. PEPSU Road Transport Corporation*** decided on 05.02.2026, where Rules *pari materia* to the PEPSU Road Transport Corporation Employees Pension/Gratuity & General Provident Fund Regulations, 1992 were analysed with respect to grant of option. The relevant extract thereof is reproduced below:

“13. I have heard the learned counsel for the parties and perused the record with their able assistance. The seminal issue that requires to be adjudicated by this Court is whether the petitioner, initially appointed on an ad hoc basis prior to the enforcement of the 1992 Regulations (15.06.1992) but regularized subsequent thereto, falls within the ambit of Clause 3(1)(i) as a fresh entrant entitled to automatic coverage, or is governed by Clause 3(1)(ii), thereby necessitating a positive exercise of option within the prescribed period.

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14. At this juncture, this Court considers it apposite to refer to the relevant provisions of the 1992 Regulations, which are reproduced hereunder:

“1. Short title and commencement: These Regulations shall be called the PEPSU Road Transport Corporation Employees Pension/Gratuity & General Provident Fund Regulations, 1992, hereinafter called as 'Regulations':-

(i) These shall come into force with immediate effect from 15.06.1992, the date of issue.

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3. Application:

(1) These regulations shall apply to the employees of the PEPSU Road Transport Corporation, who:

- (i) were/are appointed on or after the date of issue of Regulations on whole-time and regular basis; and*
- (ii) were working immediately before the date of issue of Regulations and opt for these regulations.*

(2) These regulations shall not apply to the employees, who:

(a) Opt out of these regulations.

(b) Are on deputation with the corporation.

(c) Are paid out of contingencies.

(d) Are work charged employees.

(e) Are employed on contract basis, except when the contract provides otherwise.

(f) Are re-employed after superannuation.

(g) Are specifically excluded wholly or partly from the operation of these regulations; and

(h) Opt for the P.R.T.C. Employees Pension/Gratuity and General Provident Fund Regulations, 1992, but failed to refund the amount of advance taken out of the Employer's share of the contributory Provident Fund alongwith interest thereon within the stipulated period.

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4. Exercise of Option: **The option under clause (ii) of the sub-rule (1) of Regulation 3** shall be exercised in duplicate in writing in Form-1 so as to reach the Managing Director as forwarded by General Manager in case of depots and Administrative Officer in the case of headquarter with his counter- signatures within a period of six months from the date of issue of these Regulations.”

(Emphasis added)

15. A perusal of Clause 3(1) of the 1992 Regulations reveals that the applicability of the Pension Scheme is bifurcated into **two distinct categories** of employees:

- a. First, under Clause 3(1)(i), the regulations apply to those who were or are appointed on or after the date of issue of the Regulations on a **whole-time and regular basis**.
- b. Second, under Clause 3(1)(ii), they apply to those who were **working** immediately before the date of issue of the Regulations **and** specifically opt for them.
- c.

16. As per Clause 1(i), these Regulations came into force with immediate effect from 15.06.1992. Further, Clause 4 expressly mandates that the requirement to exercise a positive option is restricted solely to the second category of employees identified under Clause 3(1)(ii), i.e., those “working immediately before the date of issue of Regulations.” Conversely, Clause 3(2) identifies specific classes of employees to whom these regulations do not apply, which includes those who opt out of the regulations, work-charged employees, and those employed on a contract basis, unless the contract specifically provides otherwise.

17. This Court is of the considered view that the aforementioned provisions must be harmoniously construed to give effect to the statutory intent. Upon such construction, it becomes evident that since Clause 3(2) expressly excludes work-charged and contractual employees from the ambit of the Pension Scheme, the phrase “working immediately before the date of issue of Regulations” in Clause 3(1)(ii) must be interpreted to mean “**working on a whole-time and regular basis immediately before the date of issue of Regulations.**”

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18. Thus, in light of the above and subject to the other provisions of the 1992 Regulations, the following legal position emerges:

a. Employees who were or are **appointed on or after** the date of issuance of the Regulations (15.06.1992) on a **whole-time and regular basis** stand **automatically** covered by the Pension Scheme. Such employees are not required to exercise any option and are entitled to the benefits of the GPF scheme as a matter of right.

b. Employees who were **already working** on a **whole-time and regular basis** immediately **before 15.06.1992**, are required to positively opt for the 1992 Regulations as per Clause 4. Upon exercising such an option, they are further required to refund any advance taken from the Employer's share of the Contributory Provident Fund, along with interest, within the stipulated timeframe.

c. Employees engaged on a work-charged or contractual basis (unless provided otherwise by contract), i.e., **non-regular employees**, are expressly excluded from the purview of the 1992 Regulations. For such employees, two scenarios may arise:

i. **Regularization Prior to 15.06.1992**: If such employees were regularized before the date of issuance of the Regulations, they fall under the ambit of Clause 3(1)(ii). Consequently, they must positively exercise an option to be covered under the Pension Scheme. Failure to do so within the prescribed period would result in their continued coverage under the CPF scheme.

ii. **Regularization After 15.06.1992**: If such employees are regularized after the date of issuance of the Regulations, they are governed by Clause 3(1)(i). In this situation, they are treated as fresh entrants on a regular basis and **automatically** stand covered by the 1992 Regulations without the need to exercise any option.

19. Applying the aforementioned legal principles to the facts of the present case, it is undisputed that the petitioner was initially appointed on an ad hoc basis as a Junior Engineer (Civil) on 16.01.1992 (Annexure P-1). He continued to serve in this capacity through successive extensions dated 10.04.1992, 10.07.1992, and 23.10.1992. On the date the 1992 Regulations

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came into force (15.06.1992), the petitioner was serving as an ad hoc employee. At that stage, by virtue of Clause 3(2), the petitioner was outside the ambit of the 1992 Regulations. As he was not a “whole-time and regular” employee on 15.06.1992, there was no legal occasion or requirement for him to exercise an option under Clause 3(1)(ii).

20. *The petitioner’s status shifted only when the respondent-Corporation issued a fresh appointment order on a regular basis on 28.12.1992 (Annexure P-6). His services were subsequently regularized w.e.f. 28.06.1993 vide office order dated 08.06.1994 (Annexure P-7). Since his regularization occurred after the 1992 Regulations were already in force, this Court is of the considered view that the petitioner falls squarely within the ambit of Clause 3(1)(i). As a fresh entrant into regular service, **he stood automatically covered** by the Pension Scheme, and the requirement to exercise a positive option was not applicable to him. This conclusion is further reinforced by the language of the regularization order dated 28.12.1992 (Annexure P-6), which expressly notes that the petitioner shall be understood as a new entrant in the service of PRTC for all intents and purposes. Such a designation confirms that the petitioner must be treated as a new appointee under Clause 3(1)(i) rather than an existing regular employee under Clause 3(1)(ii). Relevant portion of the order dated 28.12.1992 (Annexure P-6) is reproduced as under:*

“Shri Jatinder pal Singh s/o Sh. Bhajan Singh is hereby appointed as Junior Engineer in the pay scale of Rs. 1800-40-2000-50-2400-60-2700-75- 3000-100-3200 plus usual allowances as admissible from time to time, with immediate effect, subject to the following conditions:-

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*7. If he is at present employed in Central/S. Govt./Autonomous Body etc., he will have to left his present post before joining the PRTC. **He should be clearly understood that he will be as new entrant in the service of the PRTC for all intents and purposes.**”*

(Emphasis added)”

14. The petitioner was absorbed in the respondent-Council in the year 1998 vide resolution dated 30.05.1998 (Annexure P-2), duly sanctioned

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by the Director, Local Bodies, and retired on 30.06.2016, after rendering over 18 years of service. In that context, it is rather obscure for the respondent-Council to now take a stand that the petitioner was never their employee, especially in face of considerable documentary evidence stating otherwise.

15. On that note, this Court cannot let the act and conduct of the Executive Officer of the respondent-Council in passing two speaking orders (Annexure P-10 and P-11, respectively) deciding the legal notice (Annexure P-8), go unchecked. Initially, the claim of the petitioner for pension and pensionary benefits was rejected citing his failure to exercise an option or deposit contribution, in terms of the Rules of 1994. However, for reasons best known to the Executive Officer, the order (Annexure P-10) was amended vide order dated 02.12.2021 (Annexure P-11) to state that the petitioner has been denied pensionary benefits since he is not an employee of the respondent-Council. Both the orders (Annexures P-10 and P-11) were passed by the Executive Officer, and are merely 02 months apart. Such conduct not only indicates non application of mind but also a lack of knowledge with respect to the functioning of a State instrumentality. An order cannot be modified at will, especially when it causes such severe civil consequences. As such, existence of malice aside, there is no justification in passing two orders on the same issue.

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**CONCLUSION**

16. A perusal of Para 7 of Annexure P-10 indicates that the petitioner has already been granted all the retiral dues for the service rendered with the respondent-Council in terms of resolution No.81 dated 15.03.2016. As such, the surviving grievance of the petitioner only pertains to pension. Accordingly, the present petition is allowed and the impugned orders dated 27.10.2021 and 02.12.2021 (Annexures P-10 and P-11, respectively) are hereby set aside. The respondent-Council is directed to take into account the entire service rendered by the petitioner as qualifying service for the purpose of pension, in terms of memo no. Acctt-7-DCFA-DLG-05/3445-3480 dated 02.12.2005 of the Directorate of Local Government, Punjab. Further, the respondent-Council shall also intimate the petitioner of the specific amount he needs to deposit with the Council with respect to the CPF availed by him already, in order to be granted pension and other pensionary benefits. The same shall be done within 04 weeks of receipt of a certified copy of this order. The petitioner also be provided a reasonable time to deposit the requisite amount. Upon receipt of such amount, the respondent-Council shall release and arrears thereof, to the petitioner, however, without any interest thereon.

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17. Pending miscellaneous application(s), if any, shall stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

19.05.2026
Puneet Chawla

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