



122

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

CWP-9296-2026

Date of decision: 27.03.2026

Sunita

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mukesh Kumar Verma, Advocate and
Mr. Dharam Pal Saini, Advocate
for the petitioner.

Mr. Piyush Khanna, Addl.A.G., Haryana.

Mr. Vikrant Pamboo, Advocate
for respondent No.3.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the speaking order dated 09.12.2022 (Annexure P-3) passed by respondent No.2. Further, for issuance of a writ in the nature of *mandamus* directing the respondents to grant pensionary benefits to the petitioner under the Haryana Municipal Employees Pension and General Provident Fund Rules, 1993 (Annexure P-1) along with interest @ 18% per annum from the date of entitlement until actual realization.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner's late husband served as a regular Class-IV employee in the Municipal Corporation, Hisar. The Haryana Municipal Employees Pension and General Provident Fund Rules, 1993 were notified on 05.03.1993 as discernible



CWP-9296-2026

-2-

from Annexure P-1 providing for transition from CPF to pension scheme subject to an option. The deceased husband of the petitioner was illiterate and was never formally served with a copy of 1993 notification nor were the implications of the option were explained to him. A legal notice was served on 17.06.2022 seeking family pension and other benefits which remained unheeded. The petitioner filed CWP No.18580 of 2022 titled as ***Sunita Devi Vs. State of Haryana and others*** which was disposed of on 24.08.2022 (Annexure P-2) with a direction to decide the claim by passing a speaking order. The impugned speaking order was rejected the claim on the ground that the deceased did not exercise the option within the prescribed time and that the plea of illiteracy was raised after 25 years.

2.1 He further relies upon the judgment rendered by this Court in CWP No.3500 of 2018 titled as ***Nandu Vs. State of Haryana*** decided on 04.03.2020 (Annexure P-4), wherein, it was held that if rules are not brought to the notice of the employee, they cannot be used to their detriment and further relies upon the judgment of this Court in ***Dilwar Singh Vs. Haryana Power Generation Corporation Ltd. and others 2006 (3) RSJ 689*** (Annexure P-5) and submits that pension is a continuous cause of action and cannot be barred by delay or laches.

3. Per contra, learned counsel for respondent No.3 submits that the petitioner has raised a disputed question of fact in her legal notice, claiming that the deceased husband was compelled to thumb mark the option form. On the other hand, after 25 years, she is now seeking to question the literacy of her deceased husband and asserts that a copy of the 1993 notification



CWP-9296-2026

-3-

introducing the pension scheme was not served upon him. Such disputed questions of fact cannot be adjudicated by this Court while exercising its powers under Article 226 of the Constitution of India. Further, in paragraph 4 of the speaking order, it has been specifically denied that the husband of the petitioner was forced to mark his thumb impression on the option form. Once an employee has not opted for the pension scheme and continues to contribute towards the contributory provident fund until his death on 15.12.2018, the petitioner's claim cannot be considered at this stage.

4. Having heard learned counsel for the parties and perused the record with their able assistance, it transpires that the petitioner's husband had expired on 15.12.2018 and during his service, he continued to contribute to the contributory provident fund. Further, whether the petitioner's husband was forced to mark his thumb impression on the option form or he has voluntarily exercised his option, cannot be determined by this Court in the exercise of its power under Article 226 of the Constitution of India. Accordingly, reliance in this regard can be placed on the judgments in *Nandu's case (supra)* and the decision in *Dilwar Singh's case (supra)* cannot support the claim made by the petitioner in the present writ petition. Respondent No.3 has passed a detailed speaking order and has specifically denied that due to illiteracy or lack of knowledge, the deceased husband of the petitioner was compelled to put his thumb impression on the option form and thus, not opt for the Pension Rules, 1993.

5. In view of the foregoing discussion, the present civil writ petition is hereby dismissed.

6. However, petitioner would be at liberty to invoke alternative appropriate remedy available to him in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

27.03.2026
Neha

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