



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22463-2022

Babu Ram

....Petitioner

Versus

State of Punjab and others

...Respondents

Reserved on: 20.01.2026

Pronounced on: 23.01.2025

Uploaded on: 23.01.2025

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. Sharwan Sehgal, Advocate
for the petitioner (through V.C.).

Mr. Vikas Arora, DAG, Punjab.

HARPREET SINGH BRAR, J.

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of *certiorari* for quashing of order dated 09.12.2021 (Annexure P-8), whereby his claim for pension was rejected. The petitioner further seeks issuance of a writ in the nature of *mandamus* directing the respondents to treat the option for pension exercised by him pursuant to the Punjab Government's letter dated 14.11.2011 (Annexure P-4) as valid, and to release his monthly pension along with arrears from the date of his retirement, together with interest at the rate of 18% per annum and all consequential benefits.

2. Learned counsel for the petitioner *inter alia* contended that the

petitioner joined the service of the Municipal Corporation, Ludhiana



(Respondent No. 4) in the year 1979 as a Sewerman. After serving for approximately 35 years, the petitioner initially reached the age of retirement on 30.06.2014 (Annexure P-1). Subsequently, he was granted an extension of two years in service (Annexure P-2) and ultimately retired from Zone-D, Municipal Corporation, Ludhiana, on 30.06.2016.

3. It is submitted that the Government of Punjab had issued a notification dated 28.07.1994, published in the Punjab Government Gazette on 29.07.1994, which introduced the “Municipal Corporation Employees Pension and General Provident Fund Rules, 1994” (hereinafter referred to as ‘1994 Pension Rules’). Learned Counsel for the petitioner argued that the petitioner was never informed about these rules at the time of their publication, nor was he ever called upon or given an opportunity to exercise his option under the said rules. Thereafter, the Government of Punjab issued a letter dated 14.11.2011 (Annexure P-4) providing one more opportunity to employees to exercise their option for the pension scheme. Acting upon this second opportunity, the petitioner exercised his option for pension within the stipulated time frame. Consequently, his Contributory Provident Fund (CPF) bearing no. 3175 was changed/transferred to a General Provident Fund (GPF) account, and he was allotted GPF account no. 8903.

4. Learned counsel for the petitioner contended that despite exercising the valid option, the respondents failed to release his pensionary benefits. This led the petitioner to serve a legal notice dated 06.04.2021 (Annexure P-6). When no action was taken, the petitioner approached this Court via CWP No. 19466 of 2021, which was disposed of on 27.09.2021 (Annexure P-7) with directions to the respondents to decide the legal notice by



passing a speaking order. In purported compliance, respondent no. 4 passed the impugned order dated 09.12.2021 (Annexure P-8), rejecting the claim on the ground that the petitioner had earlier opted out of the pension scheme and could not change his option.

5. Learned counsel placed reliance on the judgements of this Court in *Jagtar Singh and others vs. State of Punjab and others (CWP No.18430 of 2013)*, order dated 14.11.2014 (Annexure P-9); *Raman Kapoor vs. State of Punjab and others (CWP No.15266 of 2014)*, order dated 11.07.2016 (Annexure P-10), which was upheld by the Division Bench in LPA No.2099 of 2016 vide order dated 20.07.2018 (Annexure P-11); *Kailash Sethi and others vs. State of Punjab and others (CWP No.25695 of 2016)*, order dated 16.11.2019 (Annexure P-12).

6. *Per Contra*, learned counsel for respondents contended that the petitioner had suppressed material facts, specifically that he had duly exercised his written option in 1994. In that original option, the petitioner had voluntarily chosen to “opt out” of the 1994 Pension Rules and remain under the Contributory Provident Fund (hereinafter ‘CPF’) scheme. A translated copy of the petitioner's signed option form was produced as Annexure R-1/1T.

7. It is argued that as per Rule 1(3) and Rule 3 of the 1994 Rules, the option once exercised is final and conclusive, and there is no provision for a “second option” or a “change of option”. It was clarified that the letter dated 14.11.2011 (Annexure P-4), which the petitioner relies upon, was intended only for those employees who had failed to submit any option within the original four-month window in 1994. Since the petitioner had already exercised his



choice to stay out of the pension scheme, he did not fall within the ambit of the 2011 letter.

8. Furthermore, regarding the allotment of GPF account no. 8903, the respondents explained that while the account was initially allotted following the 2011 letter, it was later realized that the order dated 14.11.2011 could not be implemented without a formal statutory amendment to the 1994 Rules. Consequently, the contributions were transferred back from the GPF to the CPF account.

9. It was contended that the petitioner is estopped by his own conduct. Throughout his 35-year service and during his two-year extension, he continued to derive benefits under the CPF scheme. Upon his final retirement on 30.06.2016, the petitioner accepted all retiral benefits, including the full CPF amount and interest, without any protest or hesitation (Annexure R-4/5). The present claim, raised nearly five years after retirement, is also hit by the doctrine of delay and laches.

OBSERVATION & ANALYSIS

10. Having heard the learned counsel for the parties and perusing the record with their able assistance, it transpires that the petitioner had already submitted his written option in 1994 under the 1994 Pension Rules, wherein he explicitly chose not to opt in favour of the said Rules (Annexure R-1/1T). Learned counsel for the petitioner was unable to controvert the reliance placed on Annexure R-1/1T. A perusal of the 1994 Rules indicates that there is no provision permitting the submission of a second or revised option and, therefore, the option once exercised by an employee attains finality. Relevant portion of the 1994 Rules is reproduced as under:



“1. Short title and commencement and

application. - (1) These rules may be called the Punjab Municipal Corporation Employees Pension and General Provident Fund Rules, 1994

(2) They shall be deemed to have come into force on and with effect from the first day of April, 1990 in the case of employees who are members of the provincialised Service of a Corporation, and in the case of employees who are members of a non-provincialised Service of a Corporation, they shall come into force from such date, as the concerned Corporation may, determine, by a resolution passed in this behalf.

(3) They shall apply to the employees of the Corporations, -

(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 Corporation's contribution 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.

(4) They shall not apply to the employees, who -

(a) opt out of these rules;

(b) are members of All India Service or 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.

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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, the option 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 he joins his duty; and

(e) in case of an employee, who dies without exercising his option within the stipulated period, he shall be deemed to have opted for these rules;

(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 supplied)

11. However, pursuant to the letter dated 14.11.2011 (Annexure P-4), the petitioner submitted a ***second*** option in favour of the pension scheme. Admittedly, no formal statutory amendment was carried out to the 1994 Pension Rules in order to implement the aforesaid letter. In any event, it must be observed that the letter dated 14.11.2011 was intended to provide a fresh opportunity only to those employees who had earlier failed to exercise any option. The petitioner, having already exercised his option to remain outside the pension scheme, does not fall within the ambit of the aforesaid letter. Relevant portion of the letter dated 14.11.2011 is reproduced hereunder:

“2. Regarding Pension Scheme:

*Regarding all the workers/employees **who could not exercise their option with regard to their pension in time**, it has been decided that those workers/employees who want to exercise their options regarding pension scheme, may exercise their options upto 31.12.2011.”*

(Emphasis supplied)

12. The reliance placed by learned counsel for the petitioner on the judgments of this Court in ***Jagtar Singh (supra)***, ***Kailash Sethi (supra)***, and ***Raman Kapoor (supra)*** is also misplaced. In those cases, the concerned



employees, who had not exercised their option within the original four-month period, exercised their option for the first time in favour of the pension scheme when a fresh opportunity was granted pursuant to the executive decision dated 31.10.2011 (communicated vide letter dated 14.11.2011). In contrast in the present case, as already noted, the petitioner had duly submitted his written option whereby he consciously chose not to opt in favour of the 1994 Rules. Furthermore, the petitioner accepted all retiral benefits, including the full CPF amount and interest without any protest at the time of retirement.

13. Moreover, the petitioner has approached this Court nearly five years after his retirement. It is trite law that the delay in approaching this Court under Article 226 of the Constitution of India may be condoned if sufficient cause is indicated or a reasonable explanation is provided for the same. However, the facts of the matter at hand indicate otherwise. Learned counsel for the petitioner has failed to specify any compelling or extenuating circumstance which prevented him from approaching this Court for such a long time. Reference in this regard may be made to the judgment rendered by a three-Judge Bench of the Hon'ble Supreme Court in ***Chairman/Managing Director, U.P. Power Corporation Limited and Others vs. Ram Gopal (2021) 13 SCC 225***, wherein, the following was held:

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be



allowed to barge into Courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In *SS Balu v. State of Kerala*, this Court observed thus:

"17. It is also well settled principle of law that "delay defeats equity". It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment." (emphasis supplied)

14. Furthermore, in *Mrinmoy Maity vs. Chhanda Koley and others* **2024 AIR SC 2717**, the Hon'ble Supreme Court has categorically observed that the High Courts must factor in the delay, while exercising its discretionary powers under Article 226 of the Constitution of India. It was further opined that undue and unexplained delay may be reason enough to dismiss a petition as indolent litigants ought not to be encouraged by writ Courts.

CONCLUSION

15. In view of the discussion above, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction under Article 226 of the Constitution of India. Accordingly, the present petition stands dismissed. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

23.01.2026

Neha

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