

(2015) 04 P&H CK 0347
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 8009 of 1993 (O&M)

Bal Mukand

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 29-04-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2015) 3 SCT 212

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : Gopi Chand, for the Appellant; Sourabh Mohunta, DAG, Advocates for the Respondent

Judgement

Jitendra Chauhan, J.

1. Prayer in the present petition filed under Articles 226 and 227 of the Constitution of India is for issuance of directions to the respondents for granting pension to the petitioner as Retired employee of the Municipal Committee, Rewari. The Haryana Government Local Government Department notified Rules called "Haryana Municipal Employees Pension and General Provident Fund Rules, 1993" in the Haryana Government Gazette Notification extra-ordinary dated 05.03.1993. It is contended that petitioner joined as Fire Station Driver on 14.04.1969 and retired on 31.03.1992 as Driver in the Fire Service of Municipality, Rewari. Petitioner is claiming pension at par with those employees who retired on or after 16.04.1992.

2. On the other hand, the learned State counsel contends that the Haryana Government (Local Government Department) presently namely as Urban Local Bodies Department allowed pensionary benefits to the employees of municipalities in the State of Haryana and issued above said notification dated 05.03.1993. Relevant provisions of rule 2(1) of the said rules is reproduced as under:--

"2(1) These rules shall apply to the employees of the municipalities who,-

(i) were/are appointed on or after the 16th day of April, 1992, on whole-time regular basis; and

(ii) were working immediately before the 16th day of April, 1992 and opt for these rules."

Learned State counsel further contends that according to above said rule cut-off date for allowing pension to the municipal employees is 16.04.1992 and the petitioner is not entitled to pension because he retired well before the cut-off date prescribed in the "Haryana Municipal Employees Pension and General Provident Fund Rules, 1993".

3. I have considered the rival contention of both the counsel for the parties.

4. Admittedly, the petitioner, who was earlier a peon, was promoted on the post of driver operator in Municipal Fire Brigade as per sub-committee order dated 11.04.1969. He submitted his joining report as Driver Operator on 14.04.1969 (FN). The petitioner retired on 31.03.1992 on attaining the age of 58 years. The service of the petitioner was governed by the Haryana Municipal Services (Integration, Recruitment and conditions of Services) Rules, 1982. It is also admitted fact that the pay and allowances and other retiral benefits have been paid to the petitioner as per the entitlement contained in 1982 Rules. In this writ petition the petitioner is claiming pension alone as per the Haryana Municipal Employees Pension and General Provident Fund Rules, 1993 which came into force with effect from 16.04.1992. The new rules came into force after sixteen days from the date of retirement. On the date of retirement of the petitioner 1982 Rules were applicable.

5. The identical issue stands settled by the Division Bench of this Court in CWP No. 19641 of 2009, vide order dated 21.12.2012. At the time of passing the impugned order, the authorities were deprived of the guidance and the benefit of the judgment passed by this Court in 2013(4) S.C.T. 286 : CWP No. 19641 of 2009 titled as R.K. Aggarwal and others v. State of Haryana and others, decided on 21.12.2012 by this Court. This judgment has attained finality in SLP No. 19784 of 2013, decided on 28.10.2013 by the Hon"ble Apex Court. Considering the fact that the identical issue is involved in the present petition, it will be in the interest of justice, if the matter is relegated to the competent authority with a direction to examine and pass a detailed order in the light of judgment passed by this Court in R.K. Aggarwal's case (supra). Accordingly, the present petition is allowed. The competent authority is directed to examine the case of the petitioner in terms of R.K. Aggarwal's case (supra) and decide the same within within a period of four months from the receipt of certified copy of the order.