

**(2010) 11 AHC CK 0161**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 65511 of 2008

Dwarika Prasad

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 10-11-2010

**Acts Referred:**

**Citation :** (2010) 11 AHC CK 0161

**Hon'ble Judges :** Sudhir Agarwal, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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**Judgement**

Sudhir Agarwal, J.—Heard learned Counsel for the Petitioner and learned Standing Counsel.

2. It is true that the Petitioner was holding a pensionable post in U.P. State Road Transport Corporation and he became a member of Employee Provident Fund but did not exercise his option for pension as required by Government Order dated 3.2.1994. It has been stated in para 3 of the supplementary counter affidavit that the Petitioner retired on 31.08.2000 and subsequently withdrew all the retirement benefits including provident fund. The Petitioner during his service period did not exercise option for grant of pension and in fact the Petitioner withdrew the entire provident fund became payable to him upon his retirement. In reply thereto there is bare denial but it has not been asserted by the Petitioner that he actually exercised his option for pension or not. The controversy involved in the present case is squarely covered by a decision of this Court in Bhagwan Das v. State of Uttar Pradesh and Ors. W.P. No. 76736 of 2005 wherein the court held:

Upon hearing the counsel for the parties, it is clear that the Petitioner during his service period did not exercise the option for the grant of pension and, in fact withdrew the entire Provident Fund that became payable to him upon his retirement. The Petitioner cannot be permitted to exercise his option after his

retirement. Consequently, this Court does not find any error in the impugned order.

The writ petition fails and is dismissed.

3. The judgment in *Ram Singh Singraur v. State of Uttar Pradesh and Ors.* 2007(7) ADJ 137 relied upon by the Petitioner has no application in the present case as based on different facts. The Petitioner has to exercise his option in view of the Government Order dated 3.2.1994 but he withdrew the entire provident fund became payable to him upon his retirement. The Petitioner cannot be permitted to exercise his option after his retirement.

4. In the circumstances, the writ petition lacks merit. Dismissed.