

(2017) 04 P&H CK 0045

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 183, 120, 184, 379, 135, 185, 186, 187, 280, 282, 293 and 419 of 2009 (O&M), Civil Writ Petition No. 24129 of 2014 (O&M)

Managing Director, Pepsu Road Transport Corporation

APPELLANT

Vs

Jagjit Singh

RESPONDENT

Date of Decision : 26-04-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 3 SCT 167

Hon'ble Judges : Surya Kant and Sudip Ahluwalia, JJ.

Bench : Division Bench

Advocate : Harsh Aggarwal, Advocate, for the Appellants; Vikas Chatrath, Advocate, for the Petitioner in CWP No. 24129 of 2014; Ankit Aggarwal for Anupam Singla, Advocates, for the Appellant in LPA. No. 120 of 2009; Vikas Bahl, Senior Advocate with Ms. Balpreet Kaur and Vikas Singh, Advocates, for the Respondents

Final Decision : Allowed

Judgement

Surya Kant, J. (Oral)—This order shall dispose of LPA Nos.120, 135, 183, 184, 185, 186, 187, 280, 282, 293, 379, 419 of 2009 and CWP No.24129 of 2014 as common question which falls for consideration in these cases is whether the private-respondents who retired from the service of the appellant-Corporation, are entitled to opt for "Pension Scheme" in place of "Contributory Provident Fund Scheme"?

2. Learned Single Judge has answered this question in favour of the employees primarily on the basis of a Division Bench judgment of this Court in PRTC v. Balwant Singh, 2007(1) SCT 828 and another judgment of a learned Single Judge in Hari Singh v. Pepsu Road Transport Corporation and another besides other Single Bench judgments referred to by the learned Single Judge while upholding the claim of respondents.

3. However, much water has flown after the decision of the learned Single Judge as the question re: option for "Pension Scheme" in place of "Contributory Provident Fund Scheme", with reference to the Regulations and Instructions of the appellant-Corporation, has been expressly gone into by the Hon"ble Supreme Court in (i) Pepsu Road Transport Corporation v. Mangal Singh and others, 2011(11) SCC 702, (ii) Pepsu Road Transport Corporation v. Amandeep Singh and others, AIR 2017 (SC) 321. In Amandeep Singh and others" case (supra), the Division Bench judgment of this Court in Balwant Singh"s case (supra) has been reversed. Sant Ram"s judgment of this Court relied upon by the respondents was of course upheld by the Apex Court as Special Leave Petition against it was dismissed.

4. From the reading of the decisions in Mangal Singh"s and Amandeep Singh and others" cases (supra), we are satisfied that no general direction can be issued to accept or reject the claim of private-respondents. Each case has to be examined on the basis of its own facts so as to determine, (i) whether the employee had exercised option for pension Scheme within the stipulated period and if so, (ii) whether such employee had complied with other statutory conditions contained in the Regulations/Instructions. Suffice to observe that all the conditions contained in the Regulations/Instructions have been held to be mandatory in nature and the appellant-Corporation as well as the employees are obligated to comply with such conditions. It is only in a case where the conditions are complied with that the employee is entitled to switch over to the pension Scheme.

5. Since vide orders under appeal, learned Single Judge has not examined the individual claims on merits, we allow these appeals in part; set-aside the order of learned Single Judge and remit the cases to the learned Single Judge for determination of individual claims of each respondent-employee on the basis of facts of each case. Since the matter pertains to pensionary Scheme, we request the learned Single Judge to make an endeavour to decide the cases within a period of four months. Since we have not gone into merits of the rival contentions raised on behalf of the parties, liberty is granted to them to raise their pleas before the learned Single Judge.

6. Parties are directed to appear before the learned Single Judge on 15.05.2017.