

(2012) 06 SHI CK 0022
In the High Court Of Himachal Pradesh
Case No : CWP No. 7459 of 2010

Om Prakash and Others

APPELLANT

Vs

Commissioner, Regional Provident Fund and Others

RESPONDENT

Date of Decision : 15-06-2012

Acts Referred:

Citation : (2013) 1 SCT 202

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Advocate : Vivek Singh Thakur, for the Appellant; Prince Chauhan, Rahul Mahajan and Mr. Vijay Arora, for the Respondent

Judgement

Surinder Singh, J.—By means of the present petition, the petitioners seek mandamus, directing the respondents to release due and admissible pension to them. The short point in the present petition taken by the petitioners is that their junior Shri Madho Ram is getting more pension than the petitioners and they are entitled for higher amount of pension. The above contention is resisted and contested by the respondents on the ground that the pension has been fixed as per the "Employees Pension Scheme, 1995" as applicable to the petitioners and they are getting the pension as per rules. 1 Whether reporters of Local Papers may be allowed to see the judgment?

2. In fact, the petitioners joined the respondent-Corporation in the year 1993-1994 as Carpenters. Petitioners 1 & 2, Om Prakash and Karam Chand sought voluntarily retirement on and w.e.f. 8.12.2000, whereas petitioners No. 3 & 4 Madho Ram and Lal Chand, respectively on 14.5.2004. Consequently, the petitioners were issued the pension payment orders alongwith the release of arrears whatever accrued to them at the time of retirement. But the claim of the petitioners for the higher pension, as claimed, was declined.

3. As a matter of fact, the petitioners were being paid the pension as per the Employees Pension Scheme, aforesaid, applying uniform formula, as indicated

therein.

4. In the Pension Scheme, several parameters for existing members, like date of birth of member in service and on calculating the age as on 15.11.1995 for categorizing them in groups are provided which was also considered from the date of joining of his service upto enforcement of the Scheme, pensionable service, the wages as of 15.11.1995, pensionable salary i.e. last 12 months wages and option of commutation and capital returns etc. The contents of the table mentioned in the notification dated 9.6.2008 were taken for determining the past service pension of the petitioners. No discrepancy has been pointed therein. The respondents in their reply in para-4 have given the formula and its application to each of the petitioners alongwith the pension amount. The petitioners have failed to point out as to how they are entitled for higher pension than that of Madho Ram, aforesaid. Therefore, the relief sought, cannot be granted to the petitioners. Therefore, the relief claimed is declined.

5. Further, the learned Counsel for the petitioners submits that qua petitioner Karam Chand, only the amount of Rs. 35,500/- as commutation amount, was paid whereas an amount of Rs. 64,900/- which has been ordered to be paid to the nominee after the death of the petitioner, is wrong. The said petitioner should have been released the amount.

6. The learned Counsel for the respondents points out that such a option has been exercised by the petitioner in accordance with the Scheme and petitioner Karam Chand is at liberty to withdraw this option and the respondents shall release the aforesaid amount.

7. In view of this situation, petitioner Karam Chand may withdraw the option so given, if so advised and the respondents after considering his option shall release the balance amount of commuted pension to the petitioner, aforesaid, within a period of three months from the date of the representation, so made. With these directions, the petition stands disposed of, so also pending application(s), if any.