

(2019) 05 P&H CK 0178

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 3674, 1476 Of 2008, 994 Of 2007, 4777 Of 2011, 63 Of 2012, 4969 Of 2014

PRTC And Another

APPELLANT

Vs

Balwinder Singh

RESPONDENT

Date of Decision : 13-05-2019

Acts Referred:

Citation : (2019) 05 P&H CK 0178

Hon'ble Judges : Harsimran Singh Sethi, J

Bench : Single Bench

Advocate : Anupam Singla, Arun Chandra, Puneet Sharma

Final Decision : Dismissed

Judgement

By this common order, the Regular Second Appeal(s), descriptions of which have been given in the head note are being decided as common question of law has been raised in all these Regular Second appeals.

The question of law which arises in these Regular Second Appeals is that as to whether the provisions of the Pension Regulations of 1992 requiring the employees to opt for the same within the time frame prescribed therein as well as the condition of deposit the amount of loan along with interest, so as to become eligible for the grant of pension, are mandatory or directory in nature?

In this Regular Second Appeal, Balwinder Singh had approached Civil Court for the grant of pension under the 1992 Regulations. The suit was allowed by the trial Court on 19.02.2008 and the appeal filed by the PRTC against the said order was dismissed by the Appellate Court on 17.09.2008.

The present Regular Second Appeal has been filed by the Corporation challenging the orders passed by the Courts below by which Sh. Balwinder Singh has been held entitled for the grant of pensionary benefits under the 1992 Regulations.

Sh. Ranbir Singh filed a suit claiming pension under the 1992 Regulations, which

suit was decreed on 10.12.2010 and a direction was given to grant the pensionary benefits to Sh. Ranbir Singh. Appeal filed by Pepsu Road Transport Corporation against the said judgment was allowed on 01.09.2011 and the order passed by the Lower Appellate Court declining the relief to Sh. Ranbir Singh for the grant of pension under the 1992 Regulations and dismissing the suit is being challenged by Ranbir Singh in the present regular second appeal.

Sh. Sajjan Singh filed the Civil Suit claiming the pensionary benefits under the 1992 Resolutions, which benefit was being denied by the Pepsu Road Transport Corporation. The suit was allowed by the trial Court on 21.05.2012 and the appeal filed by the Pepsu Road Transport Corporation against the said order was dismissed by the Appellate Court on 01.03.2013.

In the present Regular Second Appeal, the appellant-Corporation is challenging the order passed by the Courts below granting the benefit of grant of pension under the 1992 Scheme to respondents.

Sh. Malkiat filed the Civil Suit claiming the pensionary benefits under the 1992 Resolutions, which benefit was being denied by the Pepsu Road Transport Corporation. The suit was allowed by the trial Court on 28.02.2006 and the appeal filed by the Pepsu Road Transport Corporation against the said order was dismissed by the Appellate Court on 26.07.2006.

In the present Regular Second Appeal, the appellant-Corporation is challenging the order passed by the Courts below granting the benefit of grant of pension under the 1992 Scheme to respondent.

In this appeal, Sh. Gamdoor Singh filed a Civil Suit claiming the pensionary benefits under the 1992 Resolutions which suit was dismissed by the trial Court. Sh. Gamdoor Singh filed an appeal against the said order dated 07.08.2007 and the appeal filed by Sh. Gamdoor Singh was allowed on 07.02.2008. Vide order dated 07.02.2008, he was held entitled for the pensionary benefits under the 1992 Regulations, which order has been impugned by the Pepsu Road Transport Corporation in the present regular Second appeal.

Baldev Singh filed a Civil Suit claiming the pensionary benefits under the 1992 Regulations, which benefit was being denied to him by the Corporation on the ground that he never opted for pension scheme. The said suit was dismissed on the ground that the same was time barred. The appeal filed by Sh. Baldev Singh against the said order dated 16.07.2010 of the trial Court was allowed on 20.05.2011. The order passed in appeal is under challenge in the present regular second appeal by the Pepsu Road Transport Corporation.

Common question of law is being raised in these regular second appeals is that as to whether an employee who never opted for pension scheme of 1992 issued by the Corporation or was not eligible to opt for the said scheme due to non-fulfillment of the requirements of the provisions of the 1992 Pension Regulations as he/she had not returned the loan which they had taken from the CPF account,

which was the mandatory requirement to become eligible under the 1992 Regulations for the grant of pensionary benefits, will be entitled for the benefit of the 1992 Regulations or not.

Today, by a separate order, the bunch of writ petitions filed by the similarly situated personnels, who were also praying for the grant of benefit of pension under the 1992 Regulations though either they had not applied for the pension scheme of 1992 or if applied, had not returned the loan amount as envisaged under the Regulation 3 of the 1992 Regulations, hence were being termed as ineligible for the grant of the pension under the 1992 Regulations have been decided. By a detailed order, claim of the employees, who either did not opt for the pension Regulations 1992 within the given time-frame or had not returned the loan amount, have been held not entitled for the benefit of the 1992 Regulations for the grant of pension and other benefits and the action of the respondent-Corporation in denying them the relief of pension under the 1992 Regulations has been upheld.

Claim of the similarly situated employees of the respondent-Corporation for the grant of Pension under the 1992 Regulations has already been decided upto the Hon'ble Supreme Court of India. Hon'ble Supreme Court of India while deciding Civil Appeal No.3842 of 2011, titled as Pepsu Road Transport Corporation, Patiala Vs. Amandeep Singh and others and Civil Appeal No.4111 of 2008 titled as Pepsu Road Transport Corporation, Patiala Vs. Mangal Singh and others has upheld the decision of the Corporation not to grant the pension to the employees under the 1992 Regulations, who either did not opt for the pension scheme within the time as required under the 1992 Regulations or even to the employees, who had taken loan from their CPF and had not returned the same, which was a mandatory condition to become eligible for the grant of benefits under the 1992 Regulations.

Keeping in view the said decision of the Hon'ble Supreme Court of India, the claim of the employees of the Corporation for the grant of benefit under the 1992 Regulations though they had not opted for the same or were in arrears, has been rejected by this Court while deciding CWP No.4085 of 2009, titled as Sohan Lal Vs. Pepsu Road Transport Corporation, Patiala and others and other connected cases.

Counsel for the parties are agreed that the present regular second appeals, descriptions of which have been given in the headnote are covered by the judgment passed in CWP No.4085 of 2009(O&M) titled as Sohan Lal Vs. Pepsu Road Transport Corporation, Patiala and others, decided on 13.05.2019 and counsel for the parties pray that present regular second appeals be also disposed of in the same terms as Sohan Lal's case(supra). Ordered accordingly.

In view of the above request of the counsel for the parties, the aforesaid appeals bearing Nos.994 of 2007, 1476 and 3674 of 2008, 63 of 2012 and 4969 of 2014 are allowed and the impugned judgments and decrees are set aside.

RSA No.4777 of 2011 titled as Ranbir Singh Vs. Pepsu Road Transport Corporation and another is dismissed and the judgment and decree of the trial Court is upheld.

The appeals are decided in the above terms.