

(2016) 07 P&H CK 0236

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 13376 of 2014 (O/M)

Dr. Uma Ahuja

APPELLANT

Vs

Chaudhary Charan Singh

Haryana Agricultural University,
Hisar

RESPONDENT

Date of Decision: July 25, 2016

Acts Referred:

- Central Civil Service Haryana Agricultural University Employees Pension and General Provident Fund Rules, 1992 - Rule 2, 3

Citation: (2016) 4 SCT 381

Hon'ble Judges: Kuldip Singh, J.

Bench: Single Bench

Advocate: (Petitioner in person) with R.K. Malik, Senior Advocate, with Bhupinder Malik, Advocates, for the Petitioners; Aman Pal, Advocate, for the Respondents

Final Decision: Allowed

Judgement

Kuldip Singh, J. (Oral)—The petitioner, Dr. Uma Ahuja, joined as an Assistant Professor on 21.5.1976 in the respondent-University i.e. Chaudhary Charan Singh Haryana Agricultural University, Hisar, and was working in the College of Agriculture, Kaul District Kaithal, Haryana, which is stated to be the regional centre of the respondent-University. She ultimately rose to become Professor in the year 2002 and retired after attaining the age of superannuation on 31.3.2014. The claim of the petitioner is that in the year 1992, the pension rules called "CCS Haryana Agricultural University Employees Pension and General Provident Fund Rules, 1992" (in short "Pension Rules of 1992") were promulgated and that under the said rules, she had opted for pension scheme on 25.8.1993 in pursuance to the letter dated 15.4.1993, inviting the options and subsequently also, options were invited for pension scheme. Now, the petitioner has come to know that her request for pension scheme was not forwarded to the University by the Principal. The claim of the

petitioner is that she has been wrongly denied the benefit of pension and that the respondents should release the benefit of pension with interest.

2. The respondents, in the written reply, took the stand that the petitioner has no right to claim pension scheme. Every time, annual statement of CPF was sent to the petitioner. Therefore, she had the knowledge that she was governed by CPF scheme. She also obtained an advance from the CPF account. However, it was not denied that she had given option for shifting from CPF to pension scheme on 25.8.1993, in which she is stated to have signed both the forms. It was stated that the Head of Department did not accept the same nor the dealing hand dealt with the same and that it was not forwarded to the competent authority.

3. I have heard the petitioner in person, the learned senior counsel for the petitioner, the learned counsel for respondents and have also carefully gone through the file.

The said Pension Rules of 1992 are reproduced as under :-

"1. (1) These rules will be called the CCS Haryana Agricultural University Employees Pension and General Provident Fund Rules, 1992.

(2) These shall apply to the employees of the CCS Haryana Agricultural University who join the service on or after the coming into force of these rules. The employees already in service shall have the option either to opt for Pension Scheme or to be governed by the existing Contributory Provident Fund Scheme. The option shall be exercised in Annexure "A" to the Pension Statutes within a period of four months from the date of coming into force of these rules. The existing employees opting for pension scheme will have to surrender the total University contribution towards Contributory Provident Fund in their account alongwith upto date interest accrued thereon.

(3) The existing employees who do not exercise any option within the stipulated period will be deemed to have option for the Pension Scheme."

4. Clause (3) of the said Pension Rules of 1992 makes it clear that if the employee do not exercise any option within the stipulated period, the employee will be deemed to have opted for the pension scheme. It is not the case of the respondents that the petitioner had, any time, opted for CPF scheme. The plea that, on 25.8.1993 in pursuance to the letter of the University dated 15.4.1993, the petitioner opted for pension scheme, but the head of the department i.e. Principal did not approve the same nor the dealing hand dealt with the same nor it was sent to the University.

5. I am of the view that in case of exercise of option, no approval of the Principal was required. Even assuming that the dealing hand did not deal with it and did not send the same to the University, on account of Rule 3 of Pension Rules of 1992, reproduced above, the petitioner is deemed to have automatically opted for the pension scheme. The fact that thereafter the petitioner got a loan from CPF and

annual statements of CPF account of the petitioner were sent to her does not debar her from claiming the benefit of said Pension Rules of 1992. The perusal of the option form (Annexure-R-2) placed on file shows that the upper portion of the form bears the name of the petitioner, but not signed by her, whereas the lower upper portion was filled in and was signed by the petitioner and was received in the office through R. No. 3110 dated 25.8.1993. The receipt of the said option is not denied. Therefore, the petitioner is deemed to have opted for the pension scheme. If the Principal did not process the same and did not send the same to the University and, if the University in view of default clause, did not apply the operation of Rule (3) of the Pension Rules of 1992, then the respondents are to blame themselves for the same. If any loan was obtained, the respondents could always ask the petitioner to refund the same in one go or in instalments. However, it will not operate as estoppel against the petitioner.

6. In view of the matter, I am of the view that the petitioner is deemed to have opted for the pension scheme and that she is now governed by the Pension Rules of 1992. Accordingly, the petitioner is held entitled to pension in view of Pension Rules of 1992. Vide letter dated 2.4.2014 (Annexure-P-15), the representation of the petitioner for change of option from CPF to pension scheme was declined. However, since it has been held that the petitioner is deemed to have opted for pension scheme, therefore, the petition is allowed. The respondents are directed to grant pensionary benefits to the petitioner as if she had opted for Pension Rules of 1992 immediately after it came into operation. Needless to say that the respondents shall always be entitled to claim the refund of the loan taken by the petitioner, if not refunded earlier. The pension shall be released from the date of retirement of the petitioner. The arrears be paid to the petitioner within a period of three months from the date of receipt of copy of this order along with interest at the rate of 9% per annum.