

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/01560/2018
Chandigarh, this the 08th day of April, 2019

...
**CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

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Rachhpal Singh s/o Sh. Harbhans Singh, aged 56 years, working as Motor Lorry Driver (Regular) in the office CPWD, Sub Division-I, Electrical, CR Building, Sector 17, Chandigarh- 160017.

....Applicant

Versus

1. Union of India through the Secretary, M/o Urban Development, Govt. of India, Nirman Bhawan, New Delhi - - 110001.
2. Director General of Works, CPWD, R.K. Puram, New Delhi - 110022.
3. Superintending Engineer, Coordination Circle (Electrical) Central Public Works Department (CPWD) Nirman Bhawan, New Delhi - 110001.
4. Executive Engineer (Electrical), CPWD Kendriya Sadan, Sector -9, Chandigarh - 160009.

..... Respondents

II. O.A. No. 061/01565/2018

1. Narinder Singh s/o Sh. Raj Singh, aged 46 years, working as Motor Lorry Driver (Regular) in the office of Executive Engineer (Border Fencing Division), CPWD, Jammu, Palora, BSF Campus - 180001.
2. Papinder Singh s/o Sh. Raj Singh, aged 43 years, working as Motor Lorry Driver (Regular) in the office of Executive Engineer (Border Fencing Division-II), CPWD, Jammu, Palora, BSF Campus - 180001.

Both are Group 'C' employees.

.....Applicants

Versus

1. Union of India through the Secretary, M/o Urban Development, Govt. of India, Nirman Bhawan, New Delhi – 110001.
2. Director General of Works, CPWD, R.K. Puram, New Delhi – 110022.
3. Superintending Engineer (Coordination) Central Public Works Department (CPWD), Nirman Bhawan, New Delhi – 110001.
4. Executive Engineer (border Fencing Division – II_, CPWD, Jammu, Palora, BSF Campus – 180001.

.....Respondents

III. O.A. No. 060/01566/2018

1. Balwinder Singh s/o S. Bishan Singh, aged 54 years, working as Motor Lorry Driver in the office of Executive Engineer (Electrical) Chandigarh Central Electrical Division, CPWD, Kendriya Sadan, Sector 9, Chandigarh – 160009.
2. Kamal Chand s/o Sh. Bhagwan Das, aged 52 years, working as Motor Lorry Driver in the office of Executive Engineer Division No. 2 (Civil) Sector 7-B, Chandigarh – 160019.

Both are Group 'C' employees

.....Applicants

Versus

1. Union of India through the Secretary, M/o Urban Development, Govt. of India, Nirman Bhawan, New Delhi – 110001.
2. Director General of Works, CPWD, R.K. Puram, New Delhi – 110022.
3. Superintending Engineer, Coordination Circle Central Public Works Department (CPWD), Nirman Bhawan, New Delhi – 110001.
4. Executive Engineer, Head Quarters CPWD, Kendriya Sadan, Sector 9-A, Chandigarh.

..... Respondents

IV. O.A. 060/01567/2018

Ranjit Singh s/o Sh. Bishan Dass, aged 59 years, working as Motor Lorry Driver (Regular) in the office of Executive Engineer (Civil), CPWD, Sector 7-B, Chandigarh – 160019.

..... Applicant

Versus

1. Union of India through the Secretary, M/o Urban Development, Govt. of India, Nirman Bhawan, New Delhi – 110001.
2. Director General of Works, CPWD, R.K. Puram, New Delhi – 110022.
3. Superintending Engineer, Coordination Circle (Civil) Central Public Works Department (CPWD), Nirman Bhawan, New Delhi – 110001.
4. Executive Engineer (civil), CPWD, Kendriya Sadan, Sector 9, Chandigarh – 160009.

..... Respondents

Present: Mr. D.R. Sharma, counsel for the applicants
Mr. Sanjay Goyal, counsel for the respondents

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. On the request of learned counsel for the parties, this matter is taken up for hearing.
2. Since the facts, relief sought and question of law, involved in these four OAs are same, therefore, these are being disposed of by a common order. The facts, for the sake of convenience, are taken from O.A. No. 060/01560/2018 titled **Rachhpal Singh Vs. Union of India and Others.**
3. MA No. 061/02035/2018 stands allowed and the applicants in O.A. No. 061/01565/2018 are allowed to join together to file a single O.A. Similarly, M.A. No. 060/02036/2018 is allowed and the applicants in O.A. No. 060/01566/2018 are allowed to join together to file a single O.A.

4. The applicant initially joined the respondent department as Motor Lorry Driver (Muster Roll basis/work charge) on 19.12.1990 against sanctioned post in Border Fencing Division at Ferozepur (Punjab). Subsequently, he was transferred to Electrical Division at Chandigarh on 15.03.1995 and is continuing as MLD, on regular basis. His services were regularized by the respondents on the post of Motor Lorry Driver w.e.f. 11.12.2006 vide order dated 27.07.2011. The respondents started deducting the CPF from salary of the applicant under New Pension Scheme, in terms of DOP&T order dated 26.04.2004, therefore, he was not extended the benefit of pension which was extended to other persons, who approached this Court.

5. The grievance of the applicants is that since they were appointed in the year 1990, therefore, they were required to be governed under CCS (Pension) Rules, 1972 and are entitled to subscribe to GPF under old Pension Scheme.

6. Learned counsel submitted that similarly situated persons like the applicants herein approached this Court by filing O.A. No. 060/01047/2014 titled **Baldev Singh and Others Vs. Union of India & Others** which was allowed vide order dated 26.05.2015, holding them entitled to the benefit of old pension scheme. He further submitted that the order of this Court has attained finality as the respondents have implemented it qua the applicants therein, vide order dated 07.10.2016 (Annexure A-6). It is submitted that the applicants, while relying upon the ratio laid down in the case of Baldev Singh (supra), submitted a representations dated

28.03.2018 and 05.04.2018 (Annexure A-1 and A-1/A) , but the respondents have not taken a decision thereon till date.

7. Respondents have filed written statement wherein they have not denied the averment that the similarly placed persons like the applicants have already been granted the benefit of old pension scheme, under the orders of this Court.

8. We have heard learned counsel for the parties.

9. Learned counsel for the applicants vehemently argued that the action of the respondents is discriminatory. He submitted that once the persons junior to the applicants, who were appointed in the year 1993 and thereafter, have been granted the benefit of old Pension Scheme, then the applicants, who were appointed in the year 1990, cannot be deprived of this benefit. He prayed that the similar benefit be allowed in favour of the applicants also.

10. Learned counsel for the respondents is not in a position to cite any law holding contrary to what has been ruled by this Court in the case of Baldev Singh (supra).

11. We have given thoughtful consideration to the matter and perused the pleadings on record.

12. Considering the fact that the services of the similarly placed persons of the same very department, who were appointed in the year 1993 and thereafter, on work charge basis, have been regularized and they have been granted the benefit of old Pension Scheme, then the respondents possibly cannot deny the same benefit to the applicants herein, who were appointed in the year 1990. The law laid down by this Court in the case of Baldev Singh (supra) has attained finality as the same has not been challenged

in any Higher Court and has been implemented too qua the applicants therein, vide order dated 07.10.2016 (Annexure A-6), therefore, the action of the respondents in not granting the similar benefit to the similarly situated employees, of old pension scheme is held illegal and arbitrary.

13. In view of the above, we are left with no other option but to allow the prayer of the applicants. The O.As. are allowed. The respondents are directed to consider the case of the applicants for applying Old pension Scheme to them, in view of the ratio laid down in the case of Baldev Singh (supra). No costs.

(P. GOPINATH)
MEMBER (A)

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(SANJEEV KAUSHIK)
MEMBER (J)
Dated: 08.04.2019

