



**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

**CWP No.7030 of 2018**

**Date of Decision: 21.04.2025**

Surender Kumar Vats now deceased through LRs

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA  
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

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Present:- Mr. Ishnoor Singh, Advocate for  
Mr. Vikram Singh, Advocate  
for the LRs of the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

**SANJEEV PRAKASH SHARMA, J.(Oral)**

The issue raised in the present petition stands finally adjudicated by the Full Bench of this Court in its judgment pronounced on 19.07.2024 in a bunch of matters having lead case ***CWP No.17310 of 2015*** titled as '***Shamsher Singh and others Vs. State of Haryana and others***'.

The issue referred to the Larger Bench was as under:-

*"1. The Government of Haryana vide two separate Notifications dated 17.04.2009 decided to implement the recommendations of the 6th Pay Commission. Two separate Rules were notified i.e. Haryana Civil Services (Revised Pension) Part-I Rules 2009 (here-in-after referred to as 'Part-I Rules, 2009') and Haryana Civil Services (Revised Pension) Part-II Rules, 2009 (herein-*



*after referred to as 'Part-II Rules, 2009) respectively for the implementation of the same. Through Part-I Rules, 2009 pension of employees who retired prior to 01.01.2006 was directed to be fixed in a manner envisaged therein and the method of fixing pension of employees who were in service as on 01.01.2006 and were to retire thereafter was dealt by Part-II Rules 2009. The Part-I Rules, 2009 as well as Part-II Rules, 2009 were made operational with retrospective effect i.e. from 01.01.2006 although the same were notified only on 17.04.2009.*

*2. Upon the Notification of the Part-I and Part-II Rules, 2009, certain grievances were raised by the retired employees qua the Part-I Rules, 2009 as well as by Part-II Rules, 2009.*

*3. The grievance raised by the petitioners, who had already retired upto 31.12.2005 was that vide the provisions of Part-II Rules, 2009, 33 years which was envisaged for the grant of maximum pension has been reduced to 28 years, the benefit of the same was not given to them as the said Part-II Rules, 2009 have only been made applicable to employees who retire post 31.12.2005, causing prejudice to them and on account of the same, plea was raised before this Court to grant the maximum pension on completion of 28 years of service even to the retired employees, who had retired prior to 01.01.2006, while implementing Part-I Rules, 2009 as well as Part-II Rules, 2009.*

*4. Said grievance of the employees who retired prior to 01.01.2006 qua fixation of cut off date as 01.01.2006 as envisaged under Part-II Rules, 2009, due to which benefit of Rule 8(1) of Part-II Rules, 2009 was not being extended to them, came up for consideration*



*before a Division Bench of this Court in a Bunch of Petitions, which issue was decided by the Division Bench on 21.12.2012 through the case titled as **R.K. Aggarwal and others Vs. State of Haryana and others**, 2013(4) SCT 286. The Division Bench, after noticing the grievance of the employees who retired prior to 01.01.2006, who were petitioners therein, decided to uphold the cut off date of 01.01.2006 prescribed by Part-II Rules, 2009 holding that both the set of employees i.e. those who retired prior to 01.01.2006 and those who were in service on the said date on account of being governed by separate rules formed a separate class. The only benefit given to them was within the scope of interpretation of Part-I Rules, 2009, however, the computation formula for their pension calculation remained the same as applicable to them at the time of their retirement. It may be noticed that certain Notifications which were issued by the State of Haryana on the lines of Government of India with regard to the fixation of pension of the retired employees, who had retired prior to 01.01.2006, which were causing prejudice to them even qua implementation of Part-I Rules, 2009, were though set-aside by the Division Bench and a direction was given to fix the pension of the retired employees, who had retired prior to 01.01.2006 in the particular manner as envisaged by the substantive provisions of Part-I Rules, 2009.*

5. *The judgment in **R.K. Aggarwal and others (supra)** upholding the cut off date of 01.01.2006 prescribed by Part-II Rules, 2009, whereby a classification has been made between the employees who retire prior and post 01.01.2006 has already been*



*upheld by the Hon'ble Supreme Court of India as the Special Leave to Appeal (Civil) No. (s) 19784 of 2013 filed against the said judgment has already been dismissed by the Apex Court vide order dated 28.10.2013.*

6. *Thereafter, certain employees who were in service as on 01.01.2006 but had all retired before the promulgation of Part-II Rules, 2009 on 17.04.2009, raised a grievance that the benefit of Rule 8(1) of the said Rules has not been extended to them as the same has been taken away by Rule 8(3) of Part-II Rules, 2009 only on the ground that they had retired by the date the Notification dated 17.04.2009 was issued. The grievance of such employees was that once they were in service as on 01.01.2006, the benefit of Rule 8(1) of Part-II Rules 2009 should also be extended to them for fixing their pension, as they were in service for all intents and purposes keeping in view the fact that the said Rules were made effective retrospectively i.e. from 01.01.2006.*

7. *The said issue came to be decided by the Division Bench of this Court in CWP No. 352 of 2012 titled as **Gurtek Singh and others Vs. State of Haryana and others**, 2012(4) SCT 114, decided on 11.01.2012. The said issue was decided in limine by the Division Bench upholding the validity of Rule 8(3) of Part-II Rules, 2009 denying the employees, who though were in service on 01.01.2006 but had retired prior to the promulgation of Part-II Rules, 2009 the benefit envisaged by Rule 8(1) of the said Rules.”*

2. After taking into consideration the law as laid down by the Apex Court from time to time as well as the provisions of the Rules, it was



held as under:-

39. *The situation in the present case qua Rule 8(3) of Part-II Rules, 2009 is akin to the issue decided by the Hon'ble Supreme Court of India in Maharashtra State Financial Corporation Ex-Employees Association and others (supra). In the present case also, though the employees who are in service as on 01.01.2006 i.e. the cut off date fixed under the Part-II Rules, 2009 which were promulgated on 17.04.2009, yet the benefit of Rule 8(1) of Part-II Rules, 2009 is denied to them on the ground that they had retired by the date the Notification was promulgated. Hence, the judgment in **Maharashtra State Financial Corporation Ex-Employees Association and others (supra)** is fully applicable qua the grant of benefit as envisaged under Rule 8(1) of Part-II Rules, 2009 to the employees who were in service as on 01.01.2006 even though they might have retired prior to the issuance of the Notification dated 17.04.2009.*

40. *Qua the judgment of the Division Bench in **Gurtek Singh's case (supra)**, which is being relied upon to support Rule 8(3) of Part-II Rules, 2009, it may be noticed that in the said writ petition the challenge was to the order dated 30.09.2011 passed by the Director Secondary Education denying the benefit of full pension on completion of 28 years of service in which petition the vires of Rule 8(3) of Part-II Rules, 2009 was also challenged. The order so passed by the authorities concerned was upheld by the Division Bench on the basis of Rule 8(3) of Part-II Rules, 2009 and qua the argument raised against the validity of Rule 8(3) of Part-II Rules, 2009, the said Rule was upheld by the*



*Division Bench on the ground that the same does not violate Articles 14 and 16 of the Constitution of India. It may be noticed that without there being any discussion on the issue of validity of Rule 8(3) of Part-II Rules, 2009, either on facts or on relevant settled principle of law, the same was upheld by the Division Bench while passing the judgment in **Gurtek Singh's case (supra)**. The judgments of the Hon'ble Supreme Court of India on the issue as detailed in the reference order were not noticed or dealt with. In absence of any reasoning given based upon facts of the case or on law on the issue to reach the conclusion so as to uphold Rule 8(3) of Part-II Rules, 2009 especially in view of the settled principle of law on the same issue by the Hon'ble Supreme Court of India in **Maharashtra State Financial Corporation Ex-Employees Association and others (supra)**, as noticed here-in-before, as per the rationale of which employees who were in service as on 01.01.2006 who though retired prior to the Notification dated 17.04.2009 belong to the same class of employees who continued to be in service as on 17.04.2009 being governed by the same set of Rules, the finding recorded by the Division Bench in **Gurtek Singh's case (supra)** cannot be upheld so as to uphold the validity of Rule 8(3) of Part-II Rules, 2009.*

41. *Consequently, Rule 8(3) of Part-II Rules, 2009 is held to be violative of Articles 14 and 16 of the Constitution of India and is accordingly struck down. All the employees who were in service as on 01.01.2006, will be entitled for the benefit of Part-II Rules, 2009 notified on 17.04.2009 irrespective of the fact whether they retired before the Notification dated 17.04.2009 or thereafter.”*



3. The further challenge to the afore-said judgment by the State of Haryana in *Special Leave Petition (Civil) Diary No(s). 50360/2024* titled as '*State of Haryana and others Vs. Shamsher Singh and others*' resulted in the following order dated 20.01.2025 passed by the Hon'ble Supreme Court:-

“1. *Issue notice on the application seeking condonation of delay as well as on the Special Leave Petitions.*

2. *There shall be stay of contempt proceedings, if any, till the next date of hearing.*

3. *List alongwith Dy. No.2454/2025.”*

4. In view of the above, we dispose of this writ petition in terms of the judgment passed by the Full Bench of this Court in *Shamsher Singh and others' case (supra)* and the view taken by the Full Bench as followed in the present case shall be subject to the decision in the *Special Leave Petition (Civil) Diary No(s). 50360/2024*.

(SANJEEV PRAKASH SHARMA)  
JUDGE

(MEENAKSHI I. MEHTA)  
JUDGE

April 21, 2025  
Yag Dutt

*Whether speaking/reasoned: Yes/No*  
*Whether Reportable: Yes/No*