



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

214

Date of decision: 20.08.2025

1. CWP-27198-2015 (O&M)

Vijay Kumar Kapil and others

....Petitioners

Versus

State of Punjab and others

....Respondents

2. CWP-27211-2015 (O&M)

Sukhjeet Singh Chahal and others

....Petitioners

Versus

State of Punjab and others

....Respondents

3. CWP-27402-2015 (O&M)

Subash Chander Kochhar and others

....Petitioners

Versus

Registrar, Cooperative Societies and others

....Respondents

4. CWP-1584-2016 (O&M)

Puran Lal and others

....Petitioners

Versus

Registrar, Cooperative Societies and others

....Respondents

5. CWP-4465-2016 (O&M)

Sewa Singh and others

....Petitioners

Versus

Registrar, Cooperative Societies and others

....Respondents



6. CWP-8024-2016 (O&M)

Padam Parkash Jain and another

....Petitioners

Versus

State of Punjab and others

....Respondents

7. CWP-10044-2016 (O&M)

Rakesh Kumar and others

....Petitioners

Versus

State of Punjab and others

....Respondents

8. CWP-11301-2016 (O&M)

Iqbal Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

9. CWP-11684-2016 (O&M)

Shimla Rani

....Petitioner

Versus

State of Punjab and others

....Respondents

10. COCP-683-2016 (O&M)

Subhash Chander Kochhar and another

....Petitioners

Versus

Gurbir Singh Mangat and another

....Respondents

11. COCP-663-2016 (O&M)

Vijay Kumar Kapil and others

....Petitioners

Versus

S R C Gavri

....Respondent



12. CWP-69-2018 (O&M)

Amanjit Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

13. CWP-11363-2016 (O&M)

Paramjit Singh Chinna

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. D.V. Sharma, Senior Advocate
with Mr. Tushar Sharma, Advocate
for the petitioner in CWP-27198-2025.

Mr. Ashish Gupta, Advocate
for Mr. Virender K. Shukla, Advocate
for the petitioner(s) in CWP-27198-2015,
CWP-11684-2016 and CWP-663-2016.

Mr. Dinesh Kumar, Advocate
and Mr. Arvind Galav, Advocate
for the petitioner(s) in CWP-27211-2015, CWP-8024-2016,
CWP-10044-2016 and CWP-11301-2016.

Mr. Tahaf Bains, Advocate
for the petitioner in CWP-1584-2016.

Mr. Kulbir Singh Sekhon, Advocate
for the petitioner in CWP-69-2018.

Mr. Akshay Bhan, Senior Advocate
and Mr. A.S. Rawaley, Advocate
for respondent No.3-Bank.

Mr. Ashwani Prashar, Advocate
for respondent No.4-Trust (in all cases).

Mr. Naginder Singh Vashist, Advocate
for respondents No.6, 7, 9 to 11 in CWP-27198-2015



for respondents No.6 to 9 in CWP-27211-2015
for respondents No.4 to 6
in CWP-27402-2015 and CWP-4465-2016
for respondent No.7 in CWP-8024-2016
for respondent No.6 in CWP-10044-2016
for respondent No.6 in CWP-11301-2016
for respondent No.6 in CWP Nos.11684-11363 of 2016
for respondents No.4 and 5 in CWP-1584-2016.

HARPREET SINGH BRAR J. (Oral)

1. This common order shall dispose of all the above-mentioned petitions as they arise from a similar factual background. However, for the sake of brevity, the facts are taken from CWP-27198-2015.

2. The present petition has been preferred under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of *certiorari/mandamus* quashing the impugned order dated 20.11.2015 (Annexure P-15) passed by respondent No.2-Registrar, Department of Cooperative Societies whereby the decision to discontinue the Cooperative Bank Employees Pension Scheme, 2005 was held to be fair, reasonable and legal.

FACTUAL BACKGROUND

3. Succinctly put, the facts are that the petitioners are retired employees of the Punjab State Cooperative Bank Ltd., Chandigarh (hereinafter 'PSCB'), the District Central Cooperative Banks Ltd. situated at Moga, Faridkot, Muktsar, Ferozepur, Bathinda, Sangrur, Fatehgarh Sahib, Patiala etc., and those who fall under the Common Cadre were governed by the Punjab State Cooperative Financing Institutions Service Rules, 1970-71 while Non-Common Cadre employees were governed by the Punjab State Cooperative Financing



Institutions Rules, 1958. With a view to avail tax benefit, the PSCB formulated the Cooperative Bank Employees Pension Scheme, 2005. Respondent No.2 also approved the same with some amendments vide memo No. Credit/CA4/12158 dated 16.09.2005 (Annexure P-3) (hereinafter 'Pension Scheme') and it was deemed to have come into force with effect from 01.01.1996. A trust namely Cooperative Bank Employees Pension Trust-respondent No.4 was also created in this regard.

4. However, the Board of Directors of the PSCB passed a resolution dated 27.08.2012 (Annexure P-9) whereby the Pension Scheme was concluded to be non-viable due to lack of funds with respondent No.4. Accordingly, the same was withdrawn and Defined Contributory Pension Scheme of LIC of India (hereinafter 'New Pension Scheme') where payment of pension would be as per contribution made by the members. The New Pension Scheme was notified by issuing a public notice dated 30.11.2012 (Annexure P-10). The validity of the decision to discontinue the Pension Scheme was challenged before this Court in multiple writ petitions (CWP-1038-2013, CWP-4705-2013, CWP-4707-2013, CWP-12610-2013, CWP-6351-2014, CWP-229-2014, CWP-11166-2014 and CWP-6580-2015) and vide a common order dated 19.05.2015 (Annexure P-13), they were disposed of with a direction to respondent No.2 to address their grievance. In terms of the order, respondent No.2, vide impugned order



dated 20.11.2015(Annexure P-15), concluded that the decision to discontinue the Pension Scheme is entirely valid.

CONTENTIONS

5. Learned counsel for the petitioners contends that since the petitioners retired before 01.01.1996, they had been the beneficiaries of the Pension Scheme. The change in the pension regime has been brought about due to failure of respondents No.3 and 4 to manage the affairs of the said banks. Due to some extraneous considerations, respondent-Trust failed to recover 2% of the profits from the bank as they were interested in transferring the funds to LIC, even though it was not beneficial to its members. Had the said profits been recovered from the banks under its umbrella, there would have been sufficient inflow of funds to continue the benefits of the Pension Scheme. Further still, the PSCB are paying income tax at the rate of 33% p.a., which could have been avoided if the funds were diverted to the respondent-Trust.

6. Learned counsel further submits that respondent No.2 has erred in declaring decision to discontinue the Pension Scheme to be reasonable and fair as there is no provision in the Pension Scheme which allows for its discontinuation. In fact, the Board of Directors were not competent to pass the resolution dated 27.08.2012 (Annexure P-9) whereby the Pension Scheme was discontinued, as their power, per Clause XII of the Pension Scheme, is limited to alteration, amendment and addition. Moreover, neither the petitioners nor other similarly situated beneficiaries were afforded an opportunity of hearing before



passing of the impugned order dated 20.11.2015(Annexure P-15), contrary to the principles of natural justice. With the implementation of the New Pension Scheme, the pension of the petitioners stands decreased to 1/3rd of the original amount, much to the detriment of the petitioners. The petitioners had a legitimate expectation that the pensionary benefits will be available to them for life and their families after them, since they opted for and contributed towards the Pension Scheme. Further still, respondent No.2 has wrongly concluded that the Pension Scheme is a non-statutory scheme.

7. *Per contra*, learned Senior counsel for the respondent No.3-bank as well as learned counsel for respondent No.4-Trust submit that the Pension Scheme is a non-statutory/voluntary scheme, which is not mandatory for the employees to opt, neither does it form a part of the service conditions of Cooperative bank employees. Rather, it is a benevolent voluntary scheme created for the benefit of employees, most of whom have received handsome returns, around 25% p.a. on their contributions. The respondent-Trust reviewed the viability of the Pension Scheme and concluded that it was not feasible to continue with the same with a payment of 43% of the amount of pension, calculated on the basis of last drawn pay. Further, per letter dated 02.05.2012 (Annexure R-3/2), LIC had informed that the Pension Scheme will only be viable if the banks pay an initial contribution of Rs. 351 crore on the old pay scale or Rs. 361 crore on the new pay scale, as well as further annual contribution of 5% of the annual wage bill for 2554 employees



in service at that juncture was made. Making the said payment to keep the Pension Scheme viable, in addition to paying the benefits to in service employees was beyond what respondent-Trust could afford. As on 31.12.2012, Rs.77 crore was available with the respondent-Trust, which dwindled to Rs.25 crore on 22.03.2013, after the public notice notifying the New Pension Scheme was published and the employees availed the option of withdrawal of contribution. Furthermore, respondent No.2 in his letter dated 29.11.2007 (Annexure R-3/6) had clarified that the Board of Directors/Trust can make any amendments to the Pension Scheme, without sending the same for his approval. Additionally, respondent No.2 had deleted the proposed clauses involving financial implications of the bank with respect to the Pension Scheme, as he found it detrimental to its financial health. Moreover, 2462 employees have opted for the New Pension Scheme as opposed to the 1425 retired employees benefiting from its predecessor. As such, the welfare of the employees in service cannot be sacrificed to provide retiral benefits to the retirees when the respondent-Trust does not possess the requisite funds.

OBSERVATIONS AND ANALYSIS

8. Having heard learned counsel for the parties and after perusing the record, the following questions are framed for a proper adjudication of the case:

- (i) *Whether a voluntary scheme entered into by members of respondent No.4-Trust acquires statutory status*



merely because approval of respondent No.2-Registrar was sought while framing the same?

(ii) Whether the present writ petition is maintainable especially when there is no violation of the Punjab Cooperative Societies Act, 1961 or the Punjab Cooperative Societies Rules, 1963?

9. Firstly, the said banks are run by cooperative societies which are accountable to their shareholders. The said shareholders are predominantly, small time agriculturists with limited resources, as such these banks cannot be considered to be instrumentalities of State in terms of Article 12 of the Constitution of India. Further, the Pension Scheme was replaced with the New Pension Scheme in terms of resolution dated 27.08.2012 (Annexure P-9) passed by the Board of Directors which was subsequently approved by respondent No.2. However, the same cannot be considered statutory in nature since participation was not mandated by the applicable service rules.

10. Notably, the employees of PSCB and the other cooperative banks mentioned above, are also receiving their statutory entitlements of Pension (under Employees Pension Scheme, 1995) Contributory Provident Fund (under Employees' Provident Funds and Miscellaneous Provisions Act, 1952), Gratuity (under Payment of Gratuity Act, 1972) and Leave Encashment (in terms of the Government Instructions). Additionally, they are also getting statutory pension under Employees' Provident Funds and Miscellaneous Provisions Act, 1952. As such, the



petitioners are not rendered helpless by withdrawal of the Pension Scheme.

11. Clearly, the continuation of the Pension Scheme was directly dependent on the availability of requisite funds, the inflow of which did not match the outflow while the number of new beneficiaries kept increasing over the years. The Pension Scheme, by its design, was meant to serve a small number of retirees, relying on the contributions made by younger employees. As a matter of fact, the liability of the PSCB and other cooperative banks is limited to the one time contribution with the Employees Welfare Fund to the extent of 2% of the annual net profits while the remaining contribution was made by the members- those who availed the benefits of the Pension Scheme. Therefore, it cannot be reasonably assumed that it was the duty of the PSCB and other banks to make good the shortage in the pension fund. Regrettably, the financial viability of this scheme was not assessed by experts at the time of its implementation or else this model would have been perhaps discouraged for being non-viable in the long term. Moreover, the respondents have not withdrawn all support from the petitioners as with the repeal of the Pension Scheme, the New Pension Scheme was also introduced. While it may not bring the same amount of benefits, it is more in alignment with what can be afforded without shutting down the cooperative banks entirely. Further, 90% of the Pension Scheme beneficiaries have opted for the New Pension Scheme,



which indicates that a majority of the concerned employees are not aggrieved by the regime change.

12. Moving on, Section 85(2) (xxxviii) of the Punjab Cooperative Societies Act, 1961 (hereinafter ‘the Act’) read with Rule 28 of the Punjab Cooperative Societies Rules, 1963 (hereinafter ‘the Rules’) is reproduced below for further analysis:

The Act

85. Rules

(1) The **Government** may, for any co-operative society or class of such societies, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely –

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(xxxviii) qualifications for members of the committee and employees of a society or class of societies and the conditions of service subject to which persons may be employed by societies;

xxx xxx xxx

(3) Every rule made under this section shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is laid or the session immediately following the Legislature agree in making any modification in the rule or the Legislature agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

The Rules

28. Qualifications and conditions of service of employees.

(1) The qualifications and conditions of service subject to which any person may be employed by a co-operative society or a class of co-operative societies shall be such as may be determined by the **Registrar** from time to time.



*(2) Where the **Registrar** is of the opinion that it is necessary or expedient so to do, he may by order, for reasons to be recorded in writing relax the provisions of this rule with respect to any co-operative society or class of co-operative societies to such extent as he may consider proper.*

13. A perusal of Section 85 of the Act indicates that the Rule making power remains with the State Government and the employees' service conditions within its ambit. In furtherance thereof, the Punjab Cooperative Societies Rules, 1963 were created. Rule 28 of the Rules, bestows the Registrar with the power to change the conditions of service of the employees as he may deem necessary. A Division bench of this Court in *Punjab State Agricultural Cooperative Societies Employees Union Punjab vs. State of Punjab* in *CWP-16052 of 2020* decided on **09.08.2024**, that while the Registrar maybe the final interpreter of Rules, the decisions taken therein would still be amenable to judicial review if found ultra vires of the Constitution of India. However, in the case at hand, the Pension Scheme was not born out of exercise of power under Section 85 of the Act or Rules 28 of the Rules. It was the Board of Directors that presented the scheme and respondent No.2-Registrar, being the State representative approved it.

14. This act of the respondent No.2-Registrar, does not make the Pension Scheme a statutory entitlement. A perusal of letter dated 16.09.2005 (Annexure P-2) indicates that the approval granted by respondent No.2-Registrar was subject to certain amendments. Moreover, the phrase "*the Punjab State Cooperative Bank shall make*



good any other loss that is caused to the Fund due to theft, burglary, default or any other reason” was specifically omitted from Clause X Sub-Clause ii of the proposed policy, by respondent No.2-Registrar. Therefore, neither are the banks responsible for making good any deficit with respect to payment of pension according to the Pension Scheme, nor has the respondent No.2-Registrar communicated any intention, along with the amendments, to bestow statutory status on the said scheme. In fact, intention of respondent No.2-Registrar to the contrary is reflected by the letter dated 29.11.2007(Annexure R-3/6) vide which he allowed the respondent-Trust to take its own decisions, without seeking approval from him. Accordingly, being a beneficiary of the scheme does not create a vested right in the petitioners to continue receiving the pension in spite of the financial health of the banks.

15. Further still, a two-Judge Bench of the Hon’ble Supreme Court in ***Chairman & MD, Kerala SRTC vs. K.O. Varghese and others (2007) 8 SCC 231***, has categorically held that an autonomous entity, capable of framing its own rules and regulations, is entitled to decide the matter of implementation of policies that would impact its financial health. Speaking through Justice P.K. Balasubramanyan, the following was held:

*“18. We are not in a position to endorse this reasoning or conclusion of the High Court. **KSRTC is an autonomous Corporation established under the Road Transport Corporation Act, 1950. It can regulate the service of its employees by making appropriate regulations in that behalf. Until such regulations are framed, it is entitled to take note of its financial health in considering whether a***



particular recommendation for enhanced pay or pension in respect of Government employees should be adopted by it and if it is to adopted by it, from what point of time.

This, of course, would be subject to any direction that may be issued by the State Government in terms of Section 34 of the Act.

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23. Even before us, also, it has been clearly pleaded by KSRTC that its financial position is unsound. In fact, the High Court has also noticed it. **This Court has held that the financial position of a Corporation like KSRTC is certainly relevant when the Corporation takes a decision as to whether it should implement a recommendation for enhanced emoluments and pension.** Since we find from the relevant aspects brought out that the financial position of KSRTC is not sound, we are of the view that the decision taken by the State Government not to implement, here and now, the recommendations of the Fifth Pay Commission for KSRTC and the decision based on it by KSRTC are fully justified. Certainly, the decision cannot be said to be vitiated by any extraneous consideration or perverse appreciation of the circumstances obtaining.”

(emphasis added)

16. The decision in ***K.O Varghese (supra)*** was also upheld by a three-Judge Bench of the Hon’ble Supreme Court in ***T.M.Sampath and others vs. Secretary, Ministry of Water Resources (2015) 5 SCC 333***. Furthermore, in a catena of judgments such as ***State Of Punjab & Ors vs. Amar Nath Goyal (2005) 6 SCC 754***, ***The State Of Tripura vs. Anjana Bhattacharjee (2022) 19 SCC 705***, ***State of HP vs. Rajesh Chander Sood, (2016) 10 SCC 77*** and ***Satish Chander Sharma vs. State of Himachal Pradesh, 2025 SCC (Online) SC 792*** the Hon’ble Supreme Court has consistently held that creating a policy that better addresses the financial constraints faced by an institution, cannot be



held to be arbitrary and violative of Article 14 of the Constitution of India. Since the policy is not unreasonable and no vested right has been violated, the doctrine of legitimate expectation cannot be invoked. Moreover, the decision of discontinuation was entirely a policy decision taken solely for financial reasons, as such no occasion arises for the petitioners to be granted an opportunity to be heard. Acknowledging the reason for the policy change, respondent No.2-Registrar had also handed over the reins entirely to the Board of Directors, as mentioned in letter dated 29.11.2007 (Annexure R-3/2).

17. Moreover, a Full Bench of this Court in *Jasbir Singh vs. Commissioner (Appeals), Jalandhar Division and others, 2011(4) RCR (Civil) 1*, has held that the rules created by the society for its employees for internal management cannot be said to have acquired a statutory status. Speaking through Justice Satish Kumar Mittal, the following was opined:

*“37. There are three categories of Service Rules which can be framed to regulate the conditions of service of the employees of the Society. In first category, **a registered Society under the Societies Act can frame its own Service Rules to regulate the service conditions of its employees. The Rules may be binding between the Society and its employees.** The second category of the Rules is those rules which are formulated under Section 85(2) (xxxviii), which empower the Government to frame Service Rules for any Co-operative Society or for class of societies with regard to qualifications for employees of a Society or class of society and the conditions of service subject to which persons may be employed by Societies. **Such Rules so framed have the force of Statute and are deemed to be incorporated as a part of the Statute, whereas this principle does not apply to the first category of Rules framed by the Society because those Rules merely govern the internal management, business or administration of a society.**”*



They are of the nature of the Articles of Association of a Company incorporated under the Companies Act. They may be binding between the persons affected by them, but they do not have the force of a statute. But the second category of Rules is the Statutory Rules and they have the force of the statute. Similarly, there is third category of Rules known as Common Cadre Rules. These rules could have been framed under Section 84-A of the Punjab Act which provide that an apex society may suo motu and when required to do so by the Registrar shall constitute a common cadre of all, or specified class of employee in the service of that society or in the service of the central societies which are members of the apex society or in the service of the primary societies which are members of the apex society. Sub-section (2) further provides that when a common cadre of employee is constituted under sub-section (1), the Registrar shall notwithstanding anything contained in any law for the time being in force or any agreement, settlement or award determine the pay scales and allowances admissible to such employees and Apex Society shall make rules for the regulation of recruitment and conditions of service of such employees with the prior approval of the Registrar. Therefore, the Common Cadre Rules framed under sub-section (2) by the Registrar are also having the statutory colour and stand on the same footing as that of the Statutory Rules.” (emphasis added)

18. Further still, it is trite law that all entities discharging public functions would not automatically fall under the purview of ‘State’ in terms of Article 12 of the Constitution of India. As such, for a writ petition to be maintainable against a Cooperative Society, it is pertinent that the matter involves violation of statutory provisions. As mentioned above, neither can cooperative banks be construed to be ‘State’ in terms of Article 12 of the Constitution of India nor have any statutory provision been violated by withdrawal of the Pension Scheme. Accordingly, the present writ petition(s) are not maintainable before this Court.



19. Before parting with this order, it is clarified that in CWP-1038-2013, objections with regard to maintainability were raised by the respondents and it was argued that mere signature of the respondent No.2-Registrar would not make the said petition maintainable before this Court. The Co-ordinate bench, in its judgment dated 19.05.2015, merely gave a direction without advertent to the merits of the case or addressing the issue of maintainability, as such, the findings recorded therein are not binding upon this Court. However, even for the sake of argument, if the present petition is deemed to be maintainable, no relief is due to be granted to the petitioners as the case lacks substance.

CONCLUSION

20. In view of the discussion above, the questions framed above are answered as follows:

(i) *The Pension Scheme was neither framed by the State Government by exercising powers under Section 85(2) (XXXVIII) the Punjab Cooperative Societies Act, 1961, nor by the Registrar under Rule 28 of the Punjab Cooperative Societies Rules, 1963. Moreover, it is clear that respondent No.2-Registrar did not seek to interfere with the policy execution. As such, merely because an approval was sought at the time of formulating the Pension Scheme, the same cannot be regarded to be statutory in nature.*

(ii) *The withdrawal of the Pension Scheme does not amount to violation of any statutory provisions and neither are the Cooperative banks mentioned above,*



instrumentalities of State. Therefore, the present writ petition(s) are not maintainable.

21. Accordingly, all the above-mentioned petitions are dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

22. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

20.08.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No