



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

- | | |
|-----------------------------------|---|
| 1. | CWP-7658-2015
Reserved on:11.08.2025
Pronounced on: 19.08.2025 |
| Tejinder Singh Bhathal and others | ...Petitioners |
| | Versus |
| State of Punjab and another | ...Respondents |
| 2. | CWP-15317-2015 |
| Chain Singh and others | ...Petitioners |
| | Versus |
| State of Punjab and another | ...Respondents |
| 3. | CWP-10776-2015 |
| Raghubir Singh and others | ...Petitioners |
| | Versus |
| State of Punjab and another | ...Respondents |
| 4. | CWP-10766-2015 |
| Jagmohan Sharma | ...Petitioners |
| | Versus |
| State of Punjab and another | ...Respondents |
| 5. | CWP-10692-2015 |
| Jaswant Singh Cheema and others | ...Petitioners |
| | Versus |
| State of Punjab and another | ...Respondents |
| 6. | CWP-10191-2015 |
| Bhajan Singh Singh and others | ...Petitioners |
| | Versus |
| State of Punjab and another | ...Respondents |



- 7. CWP-9321-2015**
 Anchal Singh and others ...Petitioners
 Versus
 State of Punjab ...Respondent
- 8 . CWP-5079-2017**
 Arjan Dass and another ...Petitioners
 Versus
 Punjab State Power Corporation Ltd and others ...Respondents
- 9. CWP-25436-2017**
 Sukhwant Singh Bhalla ...Petitioner
 Versus
 State of Punjab and another ...Respondents
- 10. CWP-15584-2016**
 Balkar Singh ...Petitioner
 Versus
 State of Punjab and others ...Respondents
- 11. CWP-12091-2017**
 Ranjit Singh and others ...Petitioners
 Versus
 State of Punjab and others ...Respondents
- 12. CWP-5735-2021**
 Kishor hand Shory and others ...Petitioners
 Versus
 Punjab State Power Corporation Limited and others ...Respondents
- 13. CWP-32127-2019**
 Manjeet Paul ...Petitioner
 Versus
 State of Punjab and another ...Respondents



- 14. CWP-32637-2019**
 Ram Lal Chumber and others ...Petitioners
 Versus
 State of Punjab and another ...Respondents
- 15. CWP-26336-2016**
 Avtar Singh Sohal and others ...Petitioners
 Versus
 State of Punjab and another ...Respondents
- 16. CWP-6929-2017**
 Madan Lal ...Petitioner
 Versus
 State of Punjab and others ...Respondents
- 17. CWP-14142-2017**
 Subhash Chander Gupta and others ..Petitioners
 Versus
 State of Punjab and another ...Respondents
- 18. CWP-24285-2016**
 Paramjit Singh ...Petitioner
 Versus
 State of Punjab and others ...Respondents
- 19. CWP-20632-2018**
 Dr Subhash Kaushal and others ...Petitioners
 Versus
 State of Punjab and others ...Respondents
- 20. CWP-11451-2025**
 Raj Kumar Gupta ...Petitioner
 Versus
 Punjab State Power Corporation Limited and others ...Respondents



- 21. CWP-7488-2022**
 Naib Singh and others ...Petitioners
 Versus
 Punjab State Power Corporation Limited and others ...Respondents
- 22. CWP-34329-2019**
 Mehar Singh ...Petitioner
 Versus
 Punjab State Power Corporation limited and others ...Respondents
- 23. CWP-7590-2022**
 Kuldip Singh ...Petitioner
 Versus
 Punjab State Power Corporation limited and others ...Respondents
- 24. CWP-6334-2017**
 Satpal Singh and others ...Petitioners
 Versus
 State of Punjab and another ...Respondents
- 25. CWP-14614-2019**
 Pitamber Dutt and others ...Petitioners
 Versus
 Punjab State Power Corporation Limited and others ...Respondents
- 26. CWP-18382-2016**
 D.S Bakshi and others ...Petitioners
 Versus
 State of Punjab and others ...Respondents
- 27. CWP-29081-2017**
 Baldev Raj Bhandari and others ...Petitioners
 Versus
 State of Punjab and others ...Respondents



28. CWP-2389-2025
Reserved on:12.08.2025
Pronounced on: 19.08.2025

Baldev Singh and others ...Petitioners
 Versus
 State of Punjab and others ...Respondents

29. CWP-12302-2025
 Bakshish Singh ...Petitioner
 Versus
 Punjab State Agriculture Marketing Board Chandigarh and others
 ...Respondents

30. CWP-15497-2025
 Chamkaur Singh ...Petitioner
 Versus
 State of Punjab and others ...Respondents

31. CWP-27052-2019
 Satwinder Singh and another ...Petitioners
 Versus
 State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pawan Kumar Goklaney, Advocate
 and Mr. Ashish Goklaney, Advocate
 for the petitioner(s) in CWP No.5079 and 5735 of 2021.

Ms. Anmol Thakur, Advocate
 for Mr. Sandeep Arora, Advocate
 for the petitioner(s) in CWP No.15584 of 2016.

Mr. Dinesh Nagar, Advocate
 for the petitioner in CWP No.12091 of 2017,

Mr. Ashish Gupta, Advocate
 for Mr. Virender K. Shukla, Advocate
 for the petitioner in CWP No.6929 of 2017.



Mr. Kusum Raj, Advocate
for Mr. A.D.S. Jattana, Advocate
for the petitioner in CWP No.7658 of 2015.

Mr. Raj Kumar, Advocate
for the petitioner(s) in CWP No.7590 and 7488 of 2022
and in CWP Nos.14614 and 34329 of 2019.

Mr. Dinesh Kumar, Advocate
for the petitioner in CWP No.10766 of 2015.

Mr. Pankaj Bains, Advocate
for Mr. Vijay Sharma, Advocate
for the petitioner(s) in CWP No.20632 of 2018
and in CWP No.29081 of 2017.

Ms. Anu Chatrath, Sr. Advocate
with Mr. Ratik Chatrath Kapur, Advocate
for the respondent – PSPCL in CWP No.14614 of 2019
and in CWP Nos.7488 and 7590 of 2022.

Mr. H.S. Ghuman, Advocate
for the respondents in CWP No.26336 of 2016.

Mr. Sumit Kalyan, Advocate
for the respondents in CWP No.11451 of 2025.

Mr. Sehajbir Singh, Advocate
for the respondent – PSPCL in CWP No.5735 of 2021.

Mr. Sanjeev Sharma, Advocate for respondent-PSPCL in CWP
Nos.7658, 9321, 10191, 10692, 10766, 10776 of 2015, CWP
Nos.24285-2016, 6334-2017 & 34329-2019.

HARPREET SINGH BRAR, J. (ORAL)

1. This common order shall dispose of all the aforementioned civil writ petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CWP-7658 of 2015.



2. The present petition has been preferred under Articles 226 and 227 of the Constitution of India seeking issuance of a writ, direction or order quashing/setting aside of the following:

- Para-3 of the Notification dated 15.12.2011 issued by the Respondent No.1-State (Annexure P-6), vide which the date for implementation of recommendations of the Fifth Pay Commission regarding pension and other retiral benefits has been fixed at 01.12.2011;
- Order dated 06.01.2015 issued by Respondent No.1-State (Annexure P-9) whereby the date of implementation has been retained to be 01.12.2011;
- Letter dated 05.02.2015 issued by Respondent No.2- Managing Director-cum-Chairman, Punjab State Power Corporation Limited (Annexure P-10) whereby the decision in order dated 06.01.2015(Annexure P-9) has been reiterated; and

all other orders passed by the respondents vide which the benefits of recommendations of the Fifth Pay Commission have been withheld from the petitioner(s). It is further prayed that writ in the nature of *mandamus* may be issued, directing the respondents to grant the benefits of the recommendations of the Fifth Pay Commission, as mentioned in Notification dated 15.12.2011 (Annexure P-6) to the petitioners who have retired between 01.01.2006 to 30.11.2011.

FACTUAL BACKGROUND

3. Briefly, the facts of the case, as alleged, are that the petitioners were employees of the erstwhile Punjab State Electricity Board, now reconstituted as Punjab State Power Corporation Limited (hereinafter



'Corporation')-respondent no. 2. The petitioners have rendered over 25 years of service to respondent No.2 and are currently retired. The recommendations of the Fifth Pay Commission were accepted by the State of Punjab with effect from 1.01.2006 and implemented by notifying the Punjab Civil Services (Revised Pay) Rules, 2009 (hereinafter 'Rules of 2009') on 27.05.2009. The Rules of 2009 came into force on 01.01.2006. The recommendations of the Fifth Pay Commission were adopted by the State of Punjab as discernible from Notification dated 15.12.2011 (Annexure P-6) which clearly states that the prerequisite of 33 years of service to qualify for pension is dispensed with. It further states that once an employee attains a minimum qualifying service of 25 years, he/she shall be entitled to a pension equal to 50% of the basic pay or emoluments received during the last 10 months, whichever is beneficial to him/her. However, the abovementioned benefits were to be implemented with effect from 01.12.2011 as mentioned in Para-3 of the Notification dated 15.12.2011 (Annexure P-6). Since the petitioners had retired before 01.12.2011, they were denied the said benefits.

4. Previously, certain similarly situated retired employees had moved this Court and vide order dated 16.08.2013 (Annexure P-7) in **Civil Writ Petition No. 11373 of 2012**, while granting relief to the petitioners therein, a Coordinate bench quashed Para 3 of the Notification dated 15.12.2011 and observed that it could not be proved that the cut-off date of 01.12.2011 was the result of a conscious decision based on financial constraints. Aggrieved by the same, the respondent-State preferred an appeal against the order dated 16.08.2013 (Annexure P-7) by means of **Letters**



Patents Appeal No. 1857 of 2013 wherein, vide order dated on 09.07.2014 (Annexure P-8), a Division Bench of this Court directed the respondents to take a fresh decision with respect to the cut-off date.

5. Thereafter, in compliance with the order dated on 09.07.2014 (Annexure P-8), the respondent-State, vide order dated 06.01.2015 (Annexure P-9), decided to retain 01.12.2011 as the cut-off days for granting benefits of the recommendations of Fifth Pay Commission as changing the same to 01.01.2006, would inflict the State with a considerable financial burden. Following the respondent-State, respondent No.2 issued a letter dated 05.02.2015 (Annexure P-10) stating the cut-off date shall remain to be 01.12.2011.

6. Subsequently, aggrieved retired employees moved this Court by means of **Civil Writ Petition No.7239 of 2015**, challenging the order dated 06.01.2015(Annexure P-9) which resulted in quashing of the same vide order dated 18.12.2019. The order dated 18.12.2019 was challenged by the respondent-State by means of **Letters Patent Appeal No.691 of 2020**, which is currently pending consideration.

CONTENTIONS

7. Learned counsel of the petitioner contends that vide its order dated 06.01.2015(Annexure P-9), the respondent-State arbitrarily fixed the cut-off date as 01.12.2011, which is discriminatory against persons who retired from service before the said date. The respondents have arrived at this decision in a mechanical manner, without attempting to present an intelligible differentia, which is violative of the fundamental rights of the petitioners, as enshrined in Articles 14, 16 and 21 of the Constitution of



India. Learned counsel places heavy reliance on the judgment of a Constitution Bench of the Hon'ble Supreme Court in *D.S. Nakara vs. Union of India (1983) 1 SCC 305*, wherein, speaking through Justice D.A. Desai, the following was held:

“42. If it appears to be undisputable, as it does to us that the pensioners for the purpose of pension benefits form a class, would its upward revision permit a homogeneous class to be divided by arbitrarily fixing an eligibility criteria unrelated to purpose of revision, and would such classification be founded on some rational principle? The classification has to be based, as is well settled, on some rational principle and the rational principle must have nexus to the objects sought to be achieved. We have set out the objects underlying the payment of pension. If the State considered it necessary to liberalise the pension scheme, we find no rational principle behind it for granting these benefits only to those who retired subsequent to that date simultaneously denying the same to those who retired prior to that date. If the liberalisation was considered necessary for augmenting social security in old age to Government servants then those who retired earlier cannot be worse off than those who retire later. Therefore, this division which classified pensioners into two classes is not based on any rational principle and if the rational principle is the one of dividing pensioners with a view to giving something more to persons otherwise equally placed, it would be discriminatory. To illustrate, take two persons, one retired just a day prior and another a day just succeeding the specified date. Both were in the same pay bracket the average emolument was the same and both had put in equal number of years of service. How does a fortuitous circumstance of retiring a day earlier or a day later will permit totally unequal treatment in the matter of pension. One retiring a day earlier will have to be subject to ceiling of Rs. 8,100/- .p.a. and average emolument to be worked out on 36 months' salary while the other will have a ceiling of Rs. 12,000/- .p.a. and average emolument will be computed on the basis of last ten months' average. The artificial division stares into face and is unrelated to any principle and whatever principle, if there be any, has absolutely no nexus to the objects sought to be achieved by liberalising the pension scheme. In fact this arbitrary division has not only no nexus to the liberalised pension scheme but it is counter productive and runs counter to the whole gamut of pension scheme. The equal treatment guaranteed in Article 14 is wholly violated in as



much as the pension rules being statutory in character, since the specified date the rules accord differential and discriminatory treatment to equals in the matter of commutation of pension. A 48 hours' difference in matter of retirement would have a traumatic effect. Division is thus both arbitrary and unprincipled. Therefore the classification does not stand the test of Article 14.

43. **Further the classification is wholly arbitrary because we do not find a single acceptable or persuasive reason for this division. This arbitrary action violated the guarantee of Article 14.**”
(emphasis added)

8. Learned counsel also places reliance on the judgment rendered by a two-Judge Bench of the Hon'ble Supreme Court in *All Manipur Pensioners Association by its Secretary vs. State of Manipur 2019 SCC Online SC 845*, wherein, the decision in *D.S. Nakara (supra)* was reiterated. Speaking through Justice M.R. Shah, the following was opined:

“8. *Even otherwise on merits also, we are of the firm opinion that there is no valid justification to create two classes, viz., one who retired pre-1996 and another who retired post-1996, for the purpose of grant of revised pension. In our view, such a classification has no nexus with the object and purpose of grant of benefit of revised pension. All the pensioners form a one class who are entitled to pension as per the pension rules. Article 14 of the Constitution of India ensures to all equality before law and equal protection of laws. At this juncture it is also necessary to examine the concept of valid classification. A valid classification is truly a valid discrimination. It is true that Article 16 of the Constitution of India permits a valid classification. However, a very classification must be based on a just objective. The result to be achieved by the just objective presupposes the choice of some for differential consideration/treatment over others. A classification to be valid must necessarily satisfy two tests. Firstly, the distinguishing rationale has to be based on a just objective and secondly, the choice of differentiating one set of persons from another, must have a reasonable nexus to the objective sought to be achieved. The test for a valid classification may be summarised as a distinction based on a classification founded on an intelligible differentia, which has a rational relationship with the object sought to be achieved. Therefore, whenever a cut-off date (as*



*in the present controversy) is fixed to categorise one set of pensioners for favourable consideration over others, the twin test for valid classification or valid discrimination therefore must necessarily be satisfied. In the present case, the classification in question has no reasonable nexus to the objective sought to be achieved while revising the pension. As observed hereinabove, the object and purpose for revising the pension is due to the increase in the cost of living. **All the pensioners form a single class and therefore such a classification for the purpose of grant of revised pension is unreasonable, arbitrary, discriminatory and violative of Article 14 of the Constitution of India. The State cannot arbitrarily pick and choose from amongst similarly situated persons, a cut-off date for extension of benefits especially pensionary benefits. There has to be a classification founded on some rational principle when similarly situated class is differentiated for grant of any benefit.**” (emphasis added)*

9. *Per contra*, learned counsel for respondent No.2 submits that the Corporation is well within its right to prescribe a cut-off date, keeping in view the financial implications involved. The cut-off date was fixed at 01.12.2011 since modifying the same to 01.01.2006 would create a huge financial liability to the tune of Rs 168.53 crores upto 30.06.2015, besides causing a recurring additional burden of Rs 1.72 crores. The relevant financial details in this regard have been duly mentioned in the written statement filed on behalf of respondent No.2.

10. Furthermore, in compliance with the order dated 20.12.2019, respondent No.2 has submitted an additional affidavit detailing the year-wise breakup of those employees who have retired during the period 01.01.2006 to 30.11.2011, had qualified service between 25 years and 33 years, but were not granted full pension. Referring to the same, learned counsel submits that the respondent-corporation have incurred a cumulative loss of Rs. 6938.99 crores in the year 2017-18. To support his case, learned



counsel places reliance on the judgment rendered by a two-Judge bench of the Hon'ble Supreme Court in *State of Punjab and others vs. Amar Nath Goyal (2005) 6 SCC 754*, wherein, speaking through Justice B.N. Srikrishna, the following was held:

"32. The importance of considering financial implications, while providing benefits for employees, has been noted by this Court in numerous judgments including in the following two cases. In *State of Rajasthan and Anr. v. Amritlal Gandhi & Ors.*, this Court went so far as to note that:

"Financial impact of making the Regulations retrospective can be the sole consideration while fixing a cut-off date. In our opinion, it cannot be said that this cut-off date was fixed arbitrarily or without any reason. The High Court was clearly in error in allowing the writ petitions and substituting the date of 1.1.1986 for 1.1.1990"

33. More recently, in *Veerasamy (supra)*, this Court observed that, **financial constraints could be a valid ground for introducing a cut-off date while implementing a pension scheme on a revised basis. In that case, the pension scheme applied differently to persons who had retired from service before 1.7.1986, and those who were in employment on the said date. It was held that they could not be treated alike as they did not belong to one class and they formed separate classes.**

34. In *State of Punjab and Ors. v. Boota Singh and Anr.*, ("Boota Singh") after considering several judgments of this Court in *D.S. Nakara (supra)* to *K.L. Rathee v. Union of India*, it was held that *D.S. Nakara (supra)* should not be interpreted to mean that the emoluments of persons who retired after a notified date holding the same status, must be treated to be the same.

35. In *State of Punjab and Anr. v. J. L. Gupta and Ors.*, where one of us was on the Bench (Sabharwal, J.), the views expressed in *Boota Singh (supra)* were reiterated, and it was held that for the grant of additional benefit, which had financial implications, the prescription of a specific future date for conferment of additional benefit, could not be considered arbitrary.

36. In *Ramrao and Ors. v. All India Backward Class Bank Employees Welfare Association and Ors.*, a Division Bench of this Court said,



even for the purpose of effecting promotion, **the fixing of a cut-off date was neither arbitrary, unreasonable nor did it offend Article 14 of the Constitution.** Moreover, the Court held that possible hardship to be endured by a person as a result did not make cut-off dates violative of Article 14.

37. In the instant case before us, the cut-off date has been fixed as 1.4.1995 on a very valid ground, namely, that of financial constraints. Consequently, we reject the contention that the fixing of the cut-off date was arbitrary, irrational or had no rational basis or that it offends Article 14.” (emphasis supplied)

11. At this juncture, learned counsel for the respondents makes a reference to the judgment rendered by a two-Judge Bench of the Hon’ble Supreme Court in ***Government of Andhra Pradesh vs. N. Subbarayudu*** (2008) 14 SCC 702 wherein the following was opined:

“5. **In a catena of decisions of this Court it has been held that the cut off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances. This Court is also of the view that fixing cut off dates is within the domain of the executive authority and the Court should not normally interfere with the fixation of cut off date by the executive authority unless such order appears to be on the face of it blatantly discriminatory and arbitrary.** (See *State of Punjab & Ors. Vs. Amar Nath Goyal & Ors.*, (2005) 6 SCC 754).

6. No doubt in *D.S. Nakara & Ors. vs. Union of India* 1983(1) SCC 305 this Court had struck down the cut off date in connection with the demand of pension. **However, in subsequent decisions this Court has considerably watered down the rigid view taken in Nakara's Case (supra), as observed in para 29 of the decision of this Court in State of Punjab & Ors. vs. Amar Nath Goyal & Ors. (supra).**

7. **There may be various considerations in the mind of the executive authorities due to which a particular cut off date has been fixed. These considerations can be financial, administrative or other considerations. The Court must exercise judicial restraint and must ordinarily leave it to the executive authorities to fix the cut off date. The Government must be left with some leeway and free play at the joints in this connection.**



8. **In fact several decisions of this Court have gone to the extent of saying that the choice of a cut off date cannot be dubbed as arbitrary even if no particular reason is given for the same in the counter affidavit filed by the Government, (unless it is shown to be totally capricious or whimsical) vide State of Bihar vs. Ramjee Prasad 1990(3) SCC 368, Union of Indian & Anr. vs. Sudhir Kumar Jaiswal 1994(4) SCC 212 (vide para 5), Ramrao & Ors. vs. All India Backward Class Bank Employees Welfare Association & Ors. 2004 (2) SCC 76 (vide para 31), University Grants Commission vs. Sadhana Chaudhary & Ors. 1996(10) SCC 536, etc. It follows, therefore, that even if no reason has been given in the counter affidavit of the Government or the executive authority as to why a particular cut off date has been chosen, the Court must still not declare that date to be arbitrary and violative of Article 14 unless the said cut off date leads to some blatantly capricious or outrageous result.** (emphasis added)

12. Further reliance is placed on the judgments rendered by the Hon'ble Supreme Court in *The State of Tripura vs. Anjana Bhattacharjee (2022) 19 SCC 705* and *State of HP vs. Rajesh Chander Sood, (2016) 10 SCC 77*. While holding that the State is well within its right to prescribe a cut-off date for implementing grant of better and higher pensionary benefits, a two-Judge bench of the Hon'ble Supreme Court in *Rajesh Chander Sood(supra)*, speaking through Justice J.S. Khehar, the following was observed:

*“75. Having given our thoughtful consideration to the issue canvassed, and having gone through the judgments cited, we are of the considered view, that **this Court has repeatedly upheld a cut-off date, for extending better and higher pensionary benefits, based on the financial health of the employer. A cut-off date can therefore legitimately be prescribed for extending pensionary benefits, if the funds available cannot assuage the liability, to all the existing pensioners. We are therefore satisfied to conclude, that it is well within the authority of the State Government, in exercise of its administrative powers (which it exercised, by issuing the impugned repeal notification dated 2.12.2004) to fix a cut-off date, for continuing the right to receive pension in some, and depriving some others of the same.** This right was unquestionably exercised by the*



State Government, as determined by this Court, in the R.R. Verma case (supra), wherein this Court held, that the Government was vested with the inherent power to review. And that the Government was free to alter its earlier administrative decisions and policy. Surely, this is what the State Government has done in the present controversy. But this Court in the above mentioned judgment, placed a rider on the exercise of such power by the Government. In that, the exercise of such power, should be in consonance with all legal and statutory obligations.” (emphasis supplied)

Learned counsel also submits that the judgment in ***Rajesh Chander Sood (supra)*** was also upheld by a three-Judge Bench of the Hon’ble Supreme Court in ***Satish Chander Sharma vs. State of Himachal Pradesh, 2025 SCC (Online) SC 792.***

OBSERVATION AND ANALYSIS

13. Having heard the learned counsel for the parties and after perusing the record with their able assistance, the following issues arise for the consideration of this Court:

- i. *Whether respondent No.2, a statutory corporation, can deviate from the recommendations of the Fifth Pay Commission and set its own cut-off date based on its financial health?*
- ii. *Whether the present petition, being the second petition challenging the cut-off date of 01.12.2011 for implementation of the Fifth Pay Commission, is maintainable or should the petitioners have challenged the order dated 09.07.2014(Annexure P-8) passed by the Division Bench of this Court in **Letters Patents Appeal No. 1857 of 2013?***

14. The Punjab State Electricity Board (PSEB) is a statutory body that was formed on 01.2.1959, under the Electricity Supply Act, 1948. Vide



Notification No 1/9/08-EB (PR) 196, dated 16.04.2010, the Government of Punjab unbundled the PSEB into two companies- Punjab State Power Corporation Ltd. and Punjab State Transmission Corporation Ltd. Thus, admittedly, the respondent-Corporation is a statutory body.

15. 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 instrumentality of the State, 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)

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 *Amar Nath Goyal (supra)*, *N. Subbarayudu (supra)*, *Anjana Bhattacharjee (supra)*, *Rajesh Chander Sood (supra)* and *Satish Chander Sharma (supra)*, the Hon’ble Supreme Court has consistently held that imposing a certain cut-off date for extending pensionary benefits, for the reason of financial constraints, cannot be held to be arbitrary and violative of Article 14 and 16 of the Constitution of India.

16. Further still, as per Annexure R-2/3 appended with the additional affidavit filed on behalf of respondent No.2, 9729 employees have retired between 01.01.2006 and 30.11.2011 and also have a service of 25 to 33 years to their credit. As such, the total liability up to 31.12.2019 is Rs.277,80,04,974/-. However, since 1541 retirees have passed away, the net liability amounts to Rs.233,79,90,001/- for 8188 retirees. Moreover, as per the said affidavit, a liability of Rs.44,00,14,973/- also be incurred by the Corporation as family pension for the 1541 deceased retirees. Further, if the recommendations of the Fifth Pay Commission are implemented from 01.01.2006, the Corporation would have to pay an excess amount of Rs. 94,00,77,087/-. The affidavit also clearly states that the Corporation incurred a loss of Rs. 6938.99 crores the year 2017-18.

17. As such, sufficient material has been placed on record to show that the financial health of the Corporation is not sound enough to extend the



enhanced pensionary benefits to those who retired prior to 01.12.2011. Further, it is no longer *res integra* that fiscal health is a relevant consideration for a Corporation to decide the commencement date of enhanced pensionary benefits. Therefore, in the absence of any specific arguments on part of the learned counsel for the petitioner indicating that the said cut-off date has led to a blatantly capricious or outrageous result, this Court is of the considered opinion that respondents were justified in deciding to implement the recommendations of the Fifth Pay Commission with effect from 01.12.2011 and this exercise is not tainted by arbitrariness.

18. Additionally, the grounds taken by the present petitioners have already been considered by a Coordinate Bench of this Court in **Civil Writ Petition No.11373 of 2012**, and subsequently by a Division Bench in **Letters Patent Appeal No.1857 of 2013**. Since the Division bench has conclusively decided this issue on merits, the same has attained finality. As such, the petitioner ought to have filed an appeal against order dated 09.07.2014(Annexure P-8) passed by the Division Bench of this Court in **Letters Patents Appeal No. 1857 of 2013**. Since an effective alternate remedy in the form of appeal was available with the petitioners, which they failed to exercise, the present writ petition is not maintainable.

CONCLUSION

19. In view of the discussion above, the questions framed above are answered in the following manner:

- i. The PSPCL being a statutory corporation is entitled to prescribe a cut-off date for implementation of the recommendations of the Fifth Pay Commission, in view of its financial health. The inability of the



Corporation to extend benefits of enhanced pensionary benefits has been demonstrated by relying on cogent material and as such, is not arbitrary in nature.

ii. Since the issue in contention had already been adjudicated upon by a Division Bench of this Court on merits, the petitioners ought to have pursued the remedy of appeal against order dated 09.07.2014(Annexure P-8) passed by the Division Bench of this Court in **Letters Patents Appeal No. 1857 of 2013**. Therefore, the present writ petition is held to be not maintainable.

20. Accordingly, all the present petitions are dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

21. Registry is directed to place a photocopy of this order on the paper-books of the connected matters.

(HARPREET SINGH BRAR)
JUDGE

19.08.2025

PC-

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No