

IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA

CWP No. 7097 of 2024
Decided on : 31.12.2024

Smt. Phoolmati

...Petitioner

Versus

State of Himachal Pradesh and others.

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge
Whether approved for reporting?¹ Yes

For the petitioner : M/s A.K. Gupta and Babita
Chauhan, Advocates.

For the respondents : Mr. Sumit Sharma, Deputy
Advocate General, for
respondents No.1 to 3.

Mr. Tek Ram Sharma, Advocate,
for respondent No.4.

Ajay Mohan Goel, Judge (*Oral*)

By way of this writ petition, the petitioner has, *inter alia*, prayed for the following relief:-

"i. That the respondents may be ordered to pay pension to the petitioner as per notification dated 04.05.2023, under the Old Pension Rules, 1972 from due date, with all benefits incidental thereof."

2. Learned Deputy Advocate General has referred to

¹Whether reporters of the local papers may be allowed to see the judgment?

the reply filed by respondents No.1 to 3 and submitted that as the petitioner did not exercise her option in terms of memorandum dated 04.05.2023 well in time and she submitted her option only on 04.11.2023, to opt for the Old Pension Scheme, it is in the light of the said fact that pension has not been released to the petitioner under the Old Pension Scheme.

3. Learned counsel for the petitioner submitted that the petitioner was never called upon to exercise any option and it is for this reason that she did not exercise the same in time.

4. Be that as it may, in view of the fact that the petitioner retired as a Class-IV employee, from the Agriculture Department of the Government of Himachal Pradesh, this Court is of the considered view that the rigors of memorandum dated 04.05.2023 qua the period mentioned therein for the exercise of option, cannot be construed in a harsh manner against an incumbent like the petitioner as a Class-IV employee would hardly be knowing that any memorandum also stands issued by the Government and an act has to be performed by her, in the light of said memorandum. The least that is expected from an employer with regard to Class-III and Class-IV employees is

that they should inform such like employees of the memorandum and seek their options, within some reasonable time. If they do not do so within reasonable time, then the Department can proceed in the matter, in accordance with law.

5. Accordingly, this writ petition is disposed of with the direction that the option submitted by the petitioner on 04.11.2023, be treated as a valid option and the case of the petitioner for grant of pension be processed accordingly. Let needful be done, within a period of three months from today. Pending miscellaneous applications, if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

December 31, 2024
(Shivank Thakur)