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कर्मचारी भविष्य निधि संगठन
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
Employees' Provident Fund Organisation
(Ministry of Labour & Employment, Govt. Of India)
मुख्य कार्यालय/ Head Office
भविष्य निधि भवन, 14-भीकाजी कामा प्लेस, नई दिल्ली-110066
Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi-110066
Website: www.epfindia.gov.in

No. Pen(A&C)/CWP No. 4160 of 2004/HC/PN&HR/2011

To,

All Addl. Central P.F. Commissioner
All Regional Provident Fund Commissioner,
Officers-in-Charge,
ROs/SROs.

39050

Dated:

12 दिसम्बर
DEC 2011

Sub: Civil Writ Petition No. 4160 of 2004 filed by Thein Dam Workers Union before Hon'ble High Court of Punjab & Haryana at Chandigarh.

Sir,

Please find enclosed herewith the judgment dated 18-10-2011 relating to transfer of Pension Fund amount to Punjab State Govt. pension fund in respect of employees of M/s. Ranjit Sagar Dam. In this judgment, it is clarified that in case the period of Employees Provident Fund (Pension) membership is being counted for pensionary benefits in the State Govt. pension, there is no justification that the employees may enjoy double benefit i.e. by taking the refund of contribution into family pension made and also benefit of regular family pension of State Govt. of Punjab.

Accordingly, in similar appropriate legal disputes, the judgment may be utilized.

(This issues with the approval of Regional P.F. Commissioner (Pension).

Encl: As above.

Yours faithfully,

(APRAJITA JAGGI)
REGIONAL P.F. COMMISSIONER-II (PENSION)

Copy to:

1. FA & CAO.
2. Chief Vigilance Officer.
3. Director NATRSS.
4. RPFC (NDC)/(NRPO) with a request to upload on the website.
5. All ZAPs/All ZTIs/Sub ZTI.
6. All Officers in the Head Office.
7. Hindi Section for Hindi Version.

411111
Ss. No. 1 (R)

No. _____ (DW) Writs Dated _____

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

1. Union of India, Ministry of Labour Provident Fund Organisation through its Secretary, Bhavishva Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi.
2. The Regional Provident Fund Commissioner (Pension), Bhavishva Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi.
3. The Regional Provident Fund Commissioner, Punjab, Sub Regional Office, Bhavishya Nidhi Bhawan, Basant Avenue Old Jail Road, Amritsar.

Subject : CWP No. 4160 of 2004
Thein Dam Workers Union

.....Petitioner(s)

Versus

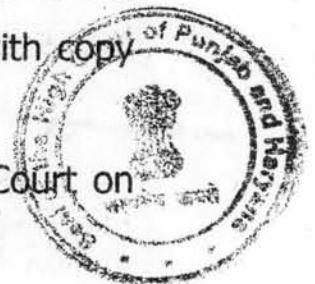
Union of India and others

.....Respondent(s)

Sir,

I am directed to forward herewith a copy of orders dated **18.10.2011** passed by this Hon'ble High Court in the above noted case for immediate compliance together with copy of Annexure P-10.

Given under my hand and the seal of this Court on this 29th day of October, 2011.



Reu
31/10/11
**Superintendent (Writs)
For Assistant Registrar (Writs)**

Imp. Urgent
17. 10/11 with referent
file late.
32/10/11
Regional P. F. Commissioner
Put up for file for discussion

1059
29/10/11

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. 1160 / 2004

Their Dem Workers Union (D.W.U.), Shahpur Kandi, Tehsil Patnankot, Distt. Gurdaspur, through its working President, Surinder Kumar (duly authorised).

.....PETITIONER.

VERSUS

1. Union of India, Ministry of Labour Provident Fund Organisation, through its Secretary, Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi.

2. The Regional Provident Fund Commissioner (Pension), Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi.

3. The Regional Provident Fund Commission, Punjab, Sub Regional Office, Bhavishya Nidhi Bhawan, Basant Avenue, Old Jail Road, Saritser.

FILED TODAY
JOINT REGISTRAR



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The Chief Engineer, Ranjit Sagar Dam,
Irrigation Works, Punjab, Shahpurkandi,
Tehsil Pathankot, Distt. Gurdaspur.

.....RESPONDENTS.

Civil Writ Petition under
Articles 226/227 of the
Constitution of India for the

~~issuance of a writ in the~~

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Handwritten marks and scribbles on the left margin.

~~Under these circumstances, it is,~~
~~therefore, respectfully~~ prayed that this Hon'ble
Court may please call for the record of the case and
after perusing the same, may be pleased to:-

- a) issue a writ in the nature of certiorari by
which the order/letter Annexure P-10 of
November, 2003, received in the office of
Respondent No.3 on 7.11.2003 be held to be
bad, illegal, unlawful, wrong
interpretation of the instructions/

directions dated 16.12.2002 and accordingly
may please be set aside;

b) issue any other writ, order or direction in
the nature of mandamus directing the
respondents to immediately refund of
contribution of the employees/members of
the petitioner-Union on account of family
pension alongwith interest at the rate of
19% per annum and damages on account of
arbitrary withholding the same for more
than seven years;

c) issue any other writ, order or direction
which this Hon'ble may deem fit in the
facts and circumstances of the case, in
favour of the petitioner;

d) to exempt the filing of the certified
copies of Annexures P-1 to P-10;

e) costs of the writ petition may also be awarded in favour of the petitioner and against the respondents;

FURTHER, pending the final disposal of the writ petition, the order/letter Annexure P-10 of November, 2003 (received on 7.11.2003) may please be stayed which shall be in the interest of justice and the respondent no.1 be directed to look into the matter afresh after hearing the petitioner-Union which shall be most equitable.



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

Civil Writ Petition No. 4160 of 2004

Date of decision:- 18-10-2011

Thein Dam Workers Union

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Sukhwinder Kaur, Advocate
for the petitioner.

Mr. Puneet Gupta, Addl.A.G. Punjab.

Mr. Rajesh Hooda, Advocate for
Mr. Kamal Sehgal, Advocate
for respondent Nos.2 and 3.

RITU BAHRI J.

The petitioner has sought quashing of order dated 07.11.2003 (Annexure P-10) passed by respondent No.2. Vide this order, it was clarified that after absorption in the State Government Service, the entire amount lying with the Employees Provident Fund Organization should be transferred to the State Government for pension fund. No payment was to be made to the individual employee. This petition has been filed by the registered union of the workers of Ranjit Sagar Dam Project. The employees were workers on work charged basis, were regularized by the Government of Punjab, Department of Irrigation vide order Annexure P-1 dated 13.3.1996. All the employees used to pay contribution prior to regularization of services on account of Clause (i) of the Employees'

PUNJAB AND HARYANA HIGH COURT

Provident Fund sub Clause (ii) of Family Pension. In the year 1995 the Punjab Government has modified its scheme on all India basis by the name of Employees' Pension Scheme, 1995. The employees' contribution to pension scheme was stopped after 15.11.1995, as per the instructions issued by Regional Provident Fund Commissioner, Punjab, Chandigarh dated 14.5.1998 (Annexure P-2). All the employees could apply for refund of their share. Some contributions were made on account of family pension. Representation dated 17.12.2002 was made seeking refund of the share of contribution on account of family pension. Case of the petitioner is that vide instructions dated 17.1.2003 (Annexure P-5) the Regional Provident Fund Commissioner had directed to respondent No.4 i.e. to the Chief Engineer, Ranjit Sagar Dam to refund the amount to the employees as the Central Government had decided to refund the Family Pension Fund accumulations to the workers of Ranjit Sagar Dam on their absorption in the State Government service. Despite this clarification no refund was made. Vide letter dated 30.09.2003 (Annexure P-9) respondent No.4 again sought the refund of Family Pension accumulations in two parts :- (1) Accumulations under employees Family Pension Scheme, 1971 and (2) Accumulations under Employees Pension Scheme, 1995. As regards category No.1, the amount was to be refunded to the employees concerned in respect of accumulations and as regard category No.2 the total accumulation w.e.f. 16.11.1995 to 12.3.1996 was refunded to the employer. Vide order dated 07.11.2003 (Annexure P-10) it has been clarified that the entire amount payable by the Employees Provident Fund Organization is to be transferred to the State Government Pension Fund and no payment is required to be made to the individual employee.

Counsel for the petitioner has argued that the employees' provident fund contribution has since been refunded to the petitioners on being regularized

in the State Government service. With regard to the clarification issued order dated 07.11.2003 (Annexure P-10) is liable to be quashed.

Mr. Rajesh Hooda, counsel for respondent Nos.2 and 3 has supported the order dated 07.11.2003 (Annexure P-10) that the instruction issued by the Central Office is clear that the payment of provident fund/ pension fund accumulations is to be made to the State Government after absorption.

I have heard counsel for the parties and have gone through the case file carefully.

The employees working in the Ranjit Sagar Dam on work charge basis were regularized by the Government of Punjab as per the policy of the Government. Thus, their past service was to be treated for pensionary as well as consequential benefits. These employees contributed the employees fund as well as family pension with the Ranjit Sagar Dam Project. As per the pension scheme of the State Government, the pension fund accumulations were required to be paid to the State Government through the employer i.e. Ranjit Sagar Dam. A request was made by the employees to release the family pension funds and the matter was taken up with the Central Government Ministry of Labour through Central Provident Fund Commissioner, New Delhi. The Central Government (Ministry of Labour) inserted new para 39(B) by way of issuing notification vide No.GSR 430 (E) dated 19th May, 2003 thereby making the provisions to refund the pension fund accumulations to the State Government through Ranjit Sagar Dam (Employer). Pursuant to the issuance of the notification, the Central Provident Fund Commissioner, New Delhi clarified the matter with regard to the payment of pension fund withdrawal vide their letter No.Pen.2/5/HR/PB/Clarif/96/53552 dated 24.10.2003 the copy of which is Annexure P-10 by the petitioner in his petition. According to the letters issued by the Central Office, it is crystal clear that the payment of the Pension Fund

accumulations is to be made to the State Government through the employer of the petitioner. The petitioners are not entitled to the family pension accumulations as per the letter dated 24.10.2003 (Annexure P-10). It was verified that the refund of Pension Fund accumulations is to be made to the State Government through the employees of M/s Ranjit Sagar Dam on their absorption in State Government service. There was a confusion about this letter, which was subsequently clarified vide notification dated 19.5.2003 (Annexure P-8). To facilitate the pension fund of 1971 a new Table 'E' was issued vide Annexure P-8. As per Annexure P-8 paragraph, '39-B' was inserted in the Employees Pension Scheme 1995, which was in favour of the Punjab Government. The entire payment of the Employees Provident Fund was paid to the State Government Pension Fund and it was not required to made to individual employees. The clarification (Annexure P-10) has eliminated the confusion created vide letter dated 16.12.2002 (Annexure P-4). Since the period of employees provident fund membership is being counted for pensionary benefits in the State Government pension, there is no justification that the employees may enjoyed double benefit i.e. by taking the refund of contribution family pension made and also benefit of regular family pension of State Government of Punjab, which is much more beneficial to the employees. The pension has been provided to the regular employees under the pension scheme of Punjab Civil Services Rules, which is more beneficial than the scheme under the Punjab Employees Provident Fund Scheme.



Order dated 07.11.2003 (Annexure P-10) does not require any interference by this Court.

The writ petition is **dismissed**.

18-10-2011
 Vijay Asija
 P-2-979-P
 03364-4
 DP No 26
 (RITU BAHRI)
 JUDGE
 2.10.11