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*Before Binod Kumar Roy, C.J. & N.K. Sodhi, J*

M.R. SINGLA & OTHERS,—*Appellants*

versus

THE STATE OF HARYANA & OTHERS,—*Respondents*

*L.P.A. No. 209 of 2002*

26th November, 2002

*Constitution of India, 1950—Art.226—Punjab Re-organisation Act, 1966—S.58—Reorganisation of State of Haryana—Employees of erstwhile State of Punjab allocated to State of Haryana—After retirement employees drawing pension from State of Haryana—Punjab Government granting liberalized pensionary benefits to its pensioners—Haryana Government not adopting such a scheme—Whether employees allocated to State of Haryana also entitled to pensionary benefits as granted by State of Punjab—Held, no—After reorganisation liability to pay pension is that of the successor State and each of the successor States can give any additional benefits to its pensioners—Appeal liable to be dismissed.*

Held, that a reading of Cl.5(1) of the provisions of the Fourteenth Schedule attached to the Act makes it abundantly clear that in regard to an officer/employee who was serving in the erstwhile State of Punjab prior to 1st November, 1966 and retires on or after that day, the liability to pay pension to him will be that of the successor State. This means that an officer who retires after 1st November, 1966 from the State of Punjab the liability to pay pension to him will be that of the State of Punjab and if he retires from the State of Haryana then the liability will be that of the Haryana Government.

(Para 4)

Further held, that according to Clause 5(1) of the Fourteenth Schedule, the liability to pay pension is that of the successor States and it is open to each of the successor States to give any additional benefits to its pensioners. The State of Punjab has by notification dated 31st August, 1989 granted liberalized pensionary benefits to its pensioners. The State of Haryana has not, however, chosen to adopt any such scheme. Therefore, the pensioners in Punjab would get those

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benefits whereas the pensioners in Haryana cannot claim that they must also be given those benefits merely because the pensioners in Punjab are getting those. The claim of the petitioners is wholly misconceived and they cannot claim the liberalized pensionary benefits which the Punjab Government has given to its pensioners. If the claim of the petitioners were to be granted, it would mean that the State of Haryana will have to be directed to adopt a liberalized pension scheme at par with that of the State of Punjab and we are clearly of the view that no such direction can be issued.

(Para 4)

Amar Vivek, Advocate, *for the appellants.*

### JUDGMENT

*N.K. SODHI, J*

(1) Whether the appellants and the private respondents (hereinafter referred to as the petitioners) who were employees of the erstwhile State of Punjab and were allocated to the State of Haryana from which State they retired after 1st November, 1966 are entitled to the grant of liberalized pensionary benefits which their counterparts are enjoying in the State of Punjab after 1st November, 1966 on the basis of the third Punjab Pay Commission report, is the sole question which arises for our consideration in this appeal under Clause X of the Letters Patent against the judgment of a learned single Judge. Facts giving rise to this appeal may first be noticed.

(2) On coming into force of the Punjab Re-organisation Act, 1966 (for short the Act), the erstwhile State of Punjab was bifurcated into two States, namely, the State of Punjab and the State of Haryana with effect from the appointed day *viz* 1st November, 1966. Union Territory of Chandigarh was also formed and some territories were transferred to Himachal Pradesh but we are not concerned with these in the present appeal. Petitioners who were the employees of the erstwhile State of Punjab were allocated to the State of Haryana on re-organisation and they retired from Government service after 1st November, 1966 and are drawing pension from the State of Haryana. Similarly a large number of officers/employees working with the erstwhile State of Punjab were allocated to the State of Punjab as it now exists on re-organisation. The State of Punjab appointed the

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Third Pay Commission which recommended certain pensionary benefits to the retired employees in the State and in pursuance to those recommendations the State Government issued a Notification dated 11th August, 1989 extending those benefits to its pensioners. Clause 10 of this Notification which is relevant for our purpose is reproduced hereunder for facility of reference :—

“The pensioners and family pensioners who completed 70 years or 80 years of age shall be granted with effect from the month succeeding the month on which they attain 70 or 80 years age, special allowance to compensate them for the higher expenses attendant with old age at the rates given below :—

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| (i) On completion of the age of 70 years | 5% of basic pension                         |
| (2) On completion of the age of 80 years | 10% of basic pension inclusive of (i) above |

The pensioners and family pensioners who have completed 70 or 80 years of age by 31st August, 1989 shall also be eligible for this allowance with effect from 1st September, 1989. This allowance shall not count for the purpose of Dearness Relief.”

It is clear from this notification that the pensioners in the State of Punjab who attain the age of 70 years are drawing 5% of their basic pension and those who complete 80 years of age are granted 10% of the basic pension in addition to the other pensionary benefits. This benefit has been given to them with effect from 1st September, 1989. The State of Haryana, a successor of the erstwhile State of Punjab has not adopted this liberalized pension scheme for its pensioners.

(3) Petitioners are also retired persons and drawing pension from the State of Haryana. Their grievance is that even though they were the employees of the erstwhile State of Punjab, they are not being given the liberalized pensionary benefits which their counterparts are enjoying in the State of Punjab. It is urged that all the employees of the erstwhile State of Punjab after re-organisation whether allocated to the State of Punjab or to the State of Haryana, from one class and

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should be treated equally in the matter of grant of pension and therefore, the State of Haryana should be directed to grant to them the liberalized pensionary benefits which their counterparts are enjoying in the State of Punjab. In other words, they are claiming the liberalized pensionary benefits in terms of Clause 10 of the Notification issued by the State of Punjab. Reliance in this regard is placed on the provisions of Section 58 of the Act and the Fourteenth Schedule attached thereto.

(4) We have heard the learned counsel for the petitioners and having given our thoughtful consideration to the contentions advanced by him are unable to accept the same. Since reference has been made to Section 58 of the Act, it will be useful to reproduce the same for facility of reference :—

“58. *Pensions*.—The liability of existing State of Punjab in respect of pensions shall pass to, or be apportioned between, the successor States in accordance with the provisions contained in the Fourteenth Schedule.”

This Section deals with the liability of the ‘existing State of Punjab’ in regard to pensions. ‘existing State of Punjab’ as defined in the Act means the erstwhile State of Punjab as it existed prior to 1st November, 1966 and according to Section 58 of the Act, the liability of that State in regard to pensions was to pass on to the successor States and it has to be apportioned in accordance with the provisions of the Fourteenth Schedule attached to the Act. This Schedule deals with the apportionment of the liability of the erstwhile State of Punjab in respect of pensions. Clause 5(1) of this Schedule which is relevant for our purpose, reads as under :—

“5(1). The liability in respect of the pension of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Punjab and retiring on or after that day, shall be that of the successor State granting the pension, but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Punjab shall be allocated between the successor States in the population ratio, and the Government granting the pension shall be

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entitled to receive from each of the other successor States its share of this liability.”

A reading of the aforesaid Clause makes it abundantly clear that in regard to an officer/employee who was serving in the erstwhile State of Punjab prior to 1st November, 1966 and retires on or after that day, the liability to pay pension to him will be that of the successor State. This means that an officer who retires after 1st November, 1966 from the State of Punjab the liability to pay pension to him will be that of the State of Punjab and if he retires from the State of Haryana then the liability will be that of the Haryana Government. Clause 5(1) of the Act tells us that the portion of the pension of such an officer which is attributable to the service rendered by him in the erstwhile State of Punjab prior to 1st November, 1966 shall be allocated between the successor States in the population ratio and the Government granting the pension shall be entitled to receive from the other successor State its share of the liability. In other words, according to this Clause of the Schedule the pension of such an officer is the liability of the successor State and that State can recover from the other successor State its share of the liability in regard to the pension pertaining to the service rendered by that officer in the erstwhile State of Punjab prior to 1st November, 1966. Neither Section 58 nor the Fourteenth Schedule says that parity in pension has to be maintained by the successor State Governments in regard to the officers who rendered service in the erstwhile State of Punjab prior to 1st November, 1966 and retired on or after that day. These provisions do not deal with the liability of the successor States to pay pension for the period after 1st November, 1966. It is open to the successor States to have their own policies in the matter of payment of pension to their pensioners but of course, they will have to contribute their share in regard to that portion of the pension which is attributable to the service of an employee which he rendered in the erstwhile State of Punjab prior to 1st November, 1966. Since the petitioners had rendered service in the erstwhile State of Punjab prior to 1st November, 1966 and retired from the State of Haryana after that day, they are to draw pension from the State of Haryana which they are drawing. According to Clause 5(1) of the Fourteenth Schedule, the liability to pay pension is that of the successor States and it is open to each of the successor State to give any additional benefits to its pensioners. The State of Punjab has by Notification dated 31st August, 1989 granted liberalized

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pensionary benefits to its pensioners. The State of Haryana has not, however, chosen to adopt any such scheme. Therefore, the pensioners in Punjab would get those benefits whereas the pensioners in Haryana cannot claim that they must also be given those benefits merely because the pensioners in Punjab are getting those. The claim of the petitioners is wholly misconceived and they cannot claim the liberalized pensionary benefits which the Punjab Government has given to its pensioners. If the claim of the petitioners were to be granted, it would mean that the State of Haryana will have to be directed to adopt a liberalized pension scheme at par with that of the State of Punjab and we are clearly of the view that no such direction can be issued. In this view of the matter, we find no merit in the appeal and dismiss the same.

**BINOD KUMAR ROY, C.J.**

(5) I agree.

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**R.N.R.**

*Before N.K. Sodhi & M.M. Kumar, JJ*

*M/S BOSS GEARS LTD.,—Petitioner*

versus

*SALES TAX TRIBUNAL, HARYANA & ANOTHER,—Respondents*

*C.W.P. NO. 16039 OF 2002*

*25th February, 2003*

*Haryana General Sales Tax Act, 1973(Act No. 26 of 1988)—S.13-B—Haryana General Sales Tax Rules, 1975—Chapter IV-B, Rl.28-B—Rl.28-B provides incentive of exemption/deferment of payment of tax to the eligible industrial units—A limited company applying for issue of eligibility certificate for availing benefit of deferment of sales tax—Rejection of—Cl.(f) of sub Rl.(3) of Rl.28-B requires that at the time of grant of eligibility certificate a company should not be defaulter of voluntary tax—Company failing to file its returns and defaulting in payment of tax—Merely because the company applied for benefit of deferment of tax it cannot justify the non-payment of tax and non-filing of returns—Action of respondents in rejecting application for*