2024:PHHC:157352-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9426 of 2023(O&M)
Date of Decision: November 27,2024

Shila Devi and others

.....Petitioners

Versus

State of Punjab and others

..... Respondents

AND

CWP-10426-2024, CWP-10444-2024, CWP-10644-2024, CWP-10645-2024, CWP-10668-2024, CWP-10684-2024, CWP-10740-2024, CWP-10742-2024, CWP-10769-2024, CWP-10783-2024, CWP-10792-2024, CWP-10806-2024, CWP-10809-2024, CWP-10887-2024, CWP-10967-2024, CWP-11002-2024, CWP-11006-2024, CWP-11035-2024, CWP-11039-2024, CWP-11102-2024, CWP-11270-2024, CWP-11280-2024, CWP-11340-2024, CWP-11385-2024, CWP-11421-2024, CWP-11469-2024, CWP-11503-2024, CWP-11505-2024, CWP-11547-2024, CWP-11549-2024, CWP-11554-2024, CWP-11560-2024, CWP-11596-2024, CWP-11744-2024, CWP-11763-2023, CWP-11772-2024, CWP-11777-2024, CWP-11782-2024, CWP-11796-2024, CWP-11812-2024, CWP-11824-2024, CWP-11833-2024, CWP-11834-2024, CWP-11868-2024, CWP-11869-2024, CWP-11898-2024, CWP-11900-2024, CWP-11901-2024, CWP-11903-2024, CWP-11904-2024, CWP-11916-2024, CWP-11918-2024, CWP-11920-2024, CWP-11922-2024, CWP-11924-2024, CWP-11926-2024, CWP-11928-2024, CWP-11932-2024, CWP-11994-2024, CWP-11999-2024, CWP-12004-2024, CWP-12073-2024, CWP-12112-2024, CWP-12124-2024, CWP-12142-2024, CWP-12147-2024, CWP-12165-2024, CWP-12167-2024, CWP-12180-2024, CWP-12191-2024, CWP-12223-2024, CWP-12266-2024, CWP-12295-2024, CWP-12319-2024, CWP-12325-2024, CWP-12328-2024, CWP-12349-2024, CWP-12381-2024, CWP-12384-2024, CWP-12385-2024, CWP-12386-2024, CWP-12404-2024, CWP-12427-2024, CWP-12428-2024, CWP-12523-2024, CWP-12597-2024, CWP-12623-2024, CWP-12633-2024, CWP-12638-2024, CWP-12658-2024, CWP-12667-2024, CWP-12792-2024, CWP-12802-2024, CWP-12843-2024, CWP-12888-2024, CWP-12965-2024, CWP-13025-2024, CWP-13041-2024, CWP-13059-2024, CWP-13081-2024, CWP-13086-2024, CWP-13123-2024, CWP-13158-2024, CWP-13164-2024, CWP-13198-2024, CWP-13201-2024, CWP-13226-2024, CWP-13242-2024, CWP-13256-2024, CWP-13265-2024, CWP-13293-2024, CWP-13300-2024, CWP-13305-2024, CWP-13319-2024, CWP-13333-2024, CWP-13383-2024, CWP-13452-2024, CWP-13455-2024, CWP-13460-2024, CWP-13466-2024, CWP-13480-2024, CWP-13482-2024, CWP-13518-2024, CWP-13520-2024, CWP-13531-2024, CWP-13572-2024, CWP-13588-2024, CWP-13649-2024, CWP-13731-2024, CWP-13770-2024, CWP-13773-2024, CWP-13789-2024, CWP-13840-2024, CWP-13859-2024, CWP-13864-2024, CWP-13871-2024, CWP-13947-2024, CWP-13966-2024, CWP-13967-2024, CWP-14615-2024, CWP-15595-2024, CWP-15599-2024, CWP-15603-2024, CWP-14022-2024, CWP-14070-2024, CWP-14075-2024, CWP-14105-2024, CWP-14232-2024, CWP-14290-2024, CWP-14294-2024, CWP-14366-2024, CWP-1447-2024, CWP-14495-2024, CWP-14563-2024, CWP-14610-2024, CWP-14645-2024, CWP-14713-2024, CWP-14785-2024, CWP-14793-2024, CWP-14797-2024, CWP-14799-2024, CWP-14829-2024, CWP-14835-2024, CWP-14856-2024, CWP-14893-2024, CWP-14916-2024, CWP-14942-2024, CWP-14943-2024, CWP-15001-2024, CWP-15010-2024, CWP-15027-2024, CWP-15033-2024, CWP-15082-2024, CWP-15110-2024, CWP-15150-2024, CWP-15160-2024, CWP-15183-2024, CWP-15226-2024, CWP-15235-2024, CWP-15254-2024, CWP-15267-2024, CWP-15304-2024,

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CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

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Ms. Preetleen Kaur, Advocate
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Ms. Devangana Chhibbar, Advocate
for the petitioners (in CWP-17128-2024).

Mr. R.S. Sidhu, Advocate
for the petitioners (in CWP-15314, 16406, 16604, 19742, 21744, 18605, 19646, 17808-2024)

Ms. Shikha Khullar, Advocate for
Mr. J.S. Jaidka, Advocate
for the petitioner (in CWP-28450-2024)

Mr. Kushal K. Manchanda, Advocate
for the petitioners (in CWP No.21116-2024)

Mr. H.S. Dhandi, Advocate
for the petitioners (in CWP-12659-2024)

Mr. Anish Batra, Advocate
for the petitioners (in CWP-11463, 21352, 12521, 19528-2024)

Mr. R.S. Sidhu, Advocate
for the petitioners (in CWP-19406, 21744, 16604, 17808-2024)

Mr. Brijesh Nandan, Advocate
for the petitioners (in CWP-11605, 15626, 15564, 14032-2024)

Mr. Pawan Kumar Goklaney, Advocate
for the petitioners (in CWP-12859, 16736-2024)

Mr. P.S. Khurana, Advocate and
Mr. Navrajdeep Singh, Advocate
for the petitioners (in CWP-16903, 19529, 20579, 21632, 19526-2024)

Ms. Sonia G. Singh, Advocate
for the petitioners (in CWP-17095, 17109, 17111, 17124, 17135, 17148, 17229, 17943, 18074, 18116, 18293, 18328, 18870, 19012, 21208, 21228, 21311, 24781, 24811-2024)

Mr. Nitesh Singla, Advocate
for the petitioners (in CWP-20461, 21879, 27935-2024)

Mr. Suresh Nain, Advocate for
Mr. Sudhanshu Makkar, Advocate
for the petitioners (in CWP-13455-2024).

Mr. Mukesh Kumar Arora, Advocate
for the petitioners (in CWP-14829, 14916, 16869, 12073, 14290-2024)

Mr. Dhruv Walia, Advocate
for the petitioners (in CWP-24972-2024).

Mr. Nitin Sherwal, Advocate and
Mr. Satish Goel, Advocate for the petitioners
(in CWP-13947, 13966, 23655, 23793, 23622-2024).

Mr. Tushar Tanwar, Advocate
for the petitioners (in CWP-18290, 20179-2024).

Mr. Vikas Kumar Gupta, Advocate
for the petitioners (in CWP-26233, 26330, 22510-2024).

Mr. B.M. Singh, Advocate
for the petitioners (in CWP-10759-2024).

Mr. G.S. Saini, Advocate
for the petitioners (in CWP-19762-2024).

Mr. H.P.S. Ghuman, Advocate
for the petitioners (in CWP-19020-2024).

Mr. Didar Singh, Advocate and
Ms. Sukhanpreet Kaur, Advocate
for the petitioners (in CWP-15144-2024)

Ms. Sukhveer Kaur, Advocate for
Mr. Ravinder Pankaj, Advocate
for the petitioners (in CWP-13430-2024).

Mr. Geeteshwar Saini, Advocate for
Mr. R.K. Arya, Advocate
for the petitioners (in CWP-21355, 21689-2024)

Mr. Roshan Lal Saini, Advocate for
Mr. Sushil Nar, Advocate
for the petitioners (in CWP-16422, 24861, 23957-2024)

Mr. H.S. Dhandi, Advocate
for the petitioners (in CWP-11994, 12165, 13531, 12826, 13192-2024)

Mr. Gursharan Singh, Advocate
for the petitioners (in CWP-16105, 17756-2024)

Mr. Naresh Prabhakar, Advocate
for the petitioners (in CWP-13333, 14943, 19001-2024).

Mr. Tirath Sandhi, Advocate for
Mr. Sucha Singh, Advocate and
Mr. Surmukh Singh, Advocate
for the petitioners (in CWP-11744,19799, 13731, 14835, 17735-2024).

Mr. S.K. Rattan, Advocate
for the petitioners (in CWP-24302, 24306-2024).

Mr. Anshul, Advocate for
Mr. Chanderhans Yadav, Advocate
for the petitioners (in CWP-9556, 24132-2024)

Mr. Kuljit Singh, Advocate for
Mr. Peeush Gagneja, Advocate
for the petitioners (in CWP-27496-2023, 19404, 13452, 19802-2024)

Mr. Vineet Sehgal, Advocate
for the petitioners (in CWP-9450, 10684-2024).

Mr. F.S. Dhillon, Advocate
for the petitioners (in CWP-19788, 22435-2024)

Mr. Sarju Puri, Advocate
for the petitioners (in CWP-19101-2024)

Mr. Sanjeev Patiyal, Advocate
for the petitioners (in CWP-16989-2024)

Mr. Rajan Bansal, Advocate
for the petitioners (in CWP-15183-2024).

Mr. D.R. Bansal, Advocate
for the petitioners (in CWP-13871-2024)

Mr. S.S. Grewal, Advocate
for the petitioners (in CWP-17946-2024).

Mr. Rose Gupta, Advocate and
Ms. Yanshika Walia, Advocate

for petitioners (in CWP-12428-2024).

Mr. Gurnoor Singh, Advocate
for the petitioners (in CWP-14793-2024)
Ms. Rajni Gupta, Advocate
for the petitioners (in CWP-18461-2024)
Mr. Prabhjyot Singh, Advocate
for the petitioners (in CWP-18231, 20123, 20139,
20640, 25427-2024).

Mr. Tejinder Pal Singh, Advocate
for the petitioners (in CWP-19724-2024)

Mr. Naveen Batra, Advocate and
Mr. Rahul Garg, Advocate
for the petitioners (in CWP-13864, 21599-2024)

Mr. Sukhandeep Singh, Advocate
for the petitioners (in CWP-15160, 15235, 16199,
16383, 17892-2024).

Mr. K.S. Khehar, Advocate and
Mr. Vikram Singh, Advocate and
Mr. Harkirat Singh, Advocate
for the petitioners (in CWP-8222-2024)

Mr. Baljeet Singh Sidhu, Advocate
for the petitioners (in CWP-11901, 11904, 11918, 13383, 16145,
16147, 16149, 16185, 16188, 16200, 16213, 16232, 16266, 16339,
16378, 16457, 16936, 17099, 17153, 18079, 19227, 19685, 21131,
3560, 16258, 1610, 1631, 17244, 13429, 16275, 16329, 16458,
16964, 17409, 17896, 17899, 19237, 20293, 20311, 20326, 20662,
20671, 20696, 20969, 21761, 17928-2024)

Mr. S.P. Soi, Advocate and
Mr. Sahil Soi, Advocate
for the petitioners (in CWP-16755-2024).

Mr. Tarun Jhatta, Advocate
for the petitioners (in CWP-17750-2024).

Mr. H.S. Sidhu, Advocate
for the petitioners (in CWP-16705-2024)

Mr. R.S. Sidhu, Advocate
for the petitioners (in CWP-21204-2024)

Ms. Sumitra, Advocate for
Mr. Vikram Singh, Advocate
for the petitioners (in CWP-8222-2024)

Mr. Dhiraj Jindal, Advocate
for the petitioners (in CWP-21344, 13058-2024)

Mr. Somesh Gupta, Advocate and
Mr. Kuldeep Singh, Advocate
for the petitioners (in CWP-15362, 16837, 18040, 20012-2024)

Mr. Kanhiya Goyal, Advocate and
Ms. Bhanu Chaudhary, Advocate
for the petitioners (in CWP-17568, 20084-2024)

Mr. K.S. Gill, Advocate for
Mr. Dhiraj Chawla, Advocate
for the petitioners (in CWP-10149-2024)

Mr. Abhilaksh Grover, Advocate
for the petitioners (in CWP-15476-2024)

Ms. Vanshika Daaria, Advocate for
Mr. Krishan Daaria, Advocate
for the petitioners (in CWP-14717-2024)

Mr. Lalit Rishi, Advocate
for the petitioners (in CWP-17154, 19415, 22430-2024)

Mr. Ankush Sharma, Advocate
for the petitioners (in CWP-18754-2024)

Mr. D.S. Rawat, Advocate
for the petitioners (in CWP-16439, 21222-2024)

Ms. Vibha Nagar, Advocate and
Mr. G.S. Sandhu, Advocate for
Mr. Dinesh Nagar, Advocate
for the petitioners (in CWP-21685-2024)

Mr. Sankalp Gehlawat, Advocate
for the petitioners (in CWP-14942-2024).

Mr. Abhivadya Sood, Advocate
for the petitioners (in CWP-18916, 21182-2024)

Mr. Ujwal Anand, Advocate
for the petitioners (in CWP-19789-2024)

Mr. Amandeep Sharma, Advocate
for the petitioners (in CWP-13300, 17015, 16071,
20491-2024).

Mr. Ritesh Aggarwal, Advocate
for the petitioners (in CWP-19139, 10644, 10645, 10665,
10668, 10740, 10742, 10769, 10783, 10792, 11319-2024)

Mr. Amandeep Soni, Advocate
for the petitioners (in CWP-25526-2024)

Mr. Nirmal Singh, Advocate and
Mr. Inderpal Singh, Advocate
for the petitioners (in CWP-28247-2023, 16214, 16544, 17142,
17525, 17638, 17405, 19596, 22797, 27891-2024)

Mr. N.S. Virk, Advocate

for the petitioners (in CWP-15686, 11596, 19081-2024)

Mr. A.S. Sidhu, Advocate and
Mr. Arun Kaundal, Advocate
for the petitioners (in CWP-21943-2024)

Mr. Deep Kanwal, Advocate
for the petitioners (in CWP-15514, 12124, 14232, 22356, 19190-2024)

Mr. Sohan Singh, Advocate and
Mr. Harnek Singh, Advocate
for the petitioners (in CWP-21410-2024)

Mr. R.S. Virk, Advocate
for the petitioners (in CWP-19082-2024)

Mr. Sarwan Singh, Advocate
for the petitioners (in CWP-18271-2024)

Mr. Baldev Singh Maan, Advocate
for the petitioners (in CWP-11772, 12381, 15306, 11770, 19371, 26314-2024)

Mr. Amrik Singh, Advocate
for the petitioners (in CWP-11505, 11549, 15635, 15685, 17294, 18138, 21763-2024)

Mr. Chetan Goyal, Advocate
for the petitioners (in CWP-21582-2024)

Mr. Parveen Kumar Garg, Advocate
for the petitioners (in CWP-12658-2024)

Mr. M.S. Batth, Advocate
for the petitioners (in CWP-16381, 13178, 12435-2024)

Mr. Kinshu Mittal, Advocate
for the applicant (in CM-14430, 17021-CWP-2024)
for the petitioners (in CWP-13561-2024)

Mr. Manoj Nagrath, Advocate
for the petitioners (in CWP-17097-2024)

Mr. Parveen Gupta, Advocate
for the petitioners (in CWP-16197, 16241-2024)

Mr. Arihant Goyal, Advocate
for the petitioners (in CWP-17118, 17183, 19801-2024)

Mr. Neeraj Sharma, Advocate and
Ms. Ameena, Advocate
for the petitioners (in CWP-17719, 18851, 20205-2024)

Mr. Amit Mehta, Advocate
for the petitioners (in CWP-14566, 13480, 24057-2024)

Mr. Ashok Giri, Advocate
for the petitioners (in CWP-15267, 17448-2024)

Mr. J.S. Lalli, Advocate
for the petitioners (in CWP-13256, 18709, 21896, 21196, 16560, 11469-2024)

Ms. Sidhi Bansal, Advocate and
Ms. Ridhi Bansal, Advocate
for the petitioners (in CWP-12191, 2435-2024)

Mr. S.K. Arora, Advocate and
Mr. Lovish Arora, Advocate
for the petitioners (in CWP-11934, 12404, 13226, 13520, 15984, 16393, 17131, 7667, 19930, 15811, 15846, 17131, 17274-2024, 22785, 24863, 27994-2023

Mr. Pawan Kumar Goklaney, Advocate
for the petitioners (in CWP-11503, 12623, 13773, 16501, 20085, 20308, 12638, 13859, 16723, 20101, 23069, 8071, 13482, 16263, 16876, 20135, 8075-2024, 28990, 26148-2023)

Mr. P.S. Khurana, Advocate and Mr. Navrajdeep Singh, Advocate
for the petitioners (in CWP-11868, 13081, 14645, 14713, 16366, 17632, 18710, 18740, 13514, 19591, 20676, 21666, 21686, 21708, 14318-2024)

Mr. P.K.S. Phoolka, Advocate
for the petitioners (in CWP-18545, 23917-2024)

Ms. Rashi Verma, Advocate and
Ms. Manu Loona, Advocate
for the petitioners (in CWP-20510-2024)

Mr. P.S. Mann, Advocate
for the petitioners (in CWP-20123, 20139, 20640, 25427-2024)

Ms. Ekta Thakur, Advocate with
Ms. Shikha, Advocate for petitioners (in CWP-19349-2024)

Mr. Abhishek Goyal, Advocate and
Ms. Simran, Advocate for petitioners (in CWP-13518-2024)

Mr. S.S. Kaushik, Advocate and
Mr. Mandeep Singh, Advocate
for the petitioners (in CWP-12802-2024).

Mr. Ravi Gakhar, Advocate
for the petitioner (in CWP-10809, 11900, 11916, 11922, 11924, 11926, 11928, 12142, 12167, 12180, 12328, 12328, 13242-2024)

Mr. Rakesh Sobti, Advocate and
Mr. Narender Pal Sharma, Advocate and
Ms. Malika Sethi, Advocate for the petitioners (in CWP-16216, 14799, 14797, 21102, 17075, 18333, 14075, 21078, 20466,

13319, 16209, 12888, 21138, 22632, 13117, 17075, 10887-2024)

Ms. Geetanjali Chhabra, Advocate and
Ms. Muskan, Advocate for the petitioners (in CWP-15838, 13941, 13789, 14495, 15001, 15010, 15027, 15033, 23254, 23482, 25828, 14350-2024).

Mr. Kinshu Mittal, Advocate
for petitioners (in CWP-11280, 11898, 11903, 11920, 11999, 12112, 12223, 12597, 16788, 16922, 19999, 9975, 9999, 14089, 12678-2024).

Mr. G.S. Batra, Advocate
for the petitioners (in CWP-1259, 14899, 15241, 16661, 15617, 19582, 19784, 20004-2024)

Mr. Siddharth Gupta, Advocate
for the petitioners (in CWP-21690-2024)

Mr. Sanjeev Sharma, Advocate
for petitioners (in CWP-12223, 12597, 12678, 9975, 14089, 9999, 16852, 17074, 2490, 11280, 11898, 11903, 11920, 11999, 12050, 12112, 18769, 18775-2024).

Mr. Nitesh Singla, Advocate
for petitioners (in CWP-21879, 20461, 9365, 9331, 9304, 9158, 2186, 21717, 20900, 20732, 20687, 20536, 20452, 20307, 20302, 20030, 20047, 19283, 19217, 18997, 18739, 17887, 17269-2024 and CWP-27522, 24044, 23229, 11795, 18122-2023).

Ms. Sunita Nambiar, Advocate
for petitioners (in CWP-10426, 10967, 11002, 11547, 12384, 12385, 12427, 13588, 14615, 15599, 15603, 14615, 15595, 14610, 18508, 18522, 20116, 20756-2024).

Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate
for petitioners (in CWP-11869, 16697, 2233, 10149, 11270, 11763, 11796, 12295, 12633, 12523, 12843, 13025, 13059, 13123, 13041, 13028, 13967, 14785, 1447, 15948, 16132, 16150, 16222, 16327, 16300, 16288, 16334, 16431, 16541, 16741, 16845, 16857, 16870, 16786, 16872, 17106, 17171, 17330, 17400, 17488, 17492, 17746, 18189, 18464, 18412, 19179, 19567, 19588, 19620, 19751, 19796, 20120, 20183, 20636, 20645, 20626, 20708, 20983, 21200, 21207, 21670, 21598, 22037, 21966, 22148, 22235, 22049, 22323. 22489, 22620, 26998, 6008, 628, 22586, 26129, 26178, 26155, 26300, 27667, 13901, 12646, 15757, 16861, 17185, 18922, 20142, 20118, 20554, 21186, 21231, 22654, 23021, 13038-2024)

Mr. Brijeshwar Vashist, Advocate
for the petitioners (in CWP-17158, 17316, 13733-2024)

Mr. Hardeep Singh Saini, Advocate
for the petitioners (in CWP-16603, 17265, 19067, 26148-2024)

Dr. Eliza Gupta, Advocate and
Mr. Mayank Garg, Advocate and
Mr. Hemant Aggarwal, Advocate
for the petitioners (in CWP-17739-2024)

Mr. Karanveer Singh, Advocate
for the petitioners (in CWP-21923-2024)

Ms. Sheena Dahiya, Advocate and
Mr. Kanwal Goyal, Advocate
for the petitioners (in CWP-23024-2023)

Mr. C.L. Sharma, Advocate
for the petitioners (in CWP-15226, 13124-2024)

Ms. Madhu Dayal, Advocate and
Ms. Sukhmani Tiwana, Advocate
for SBI (in CWP-11421-2024)
for U.T., Chandigarh (in CWP-22356, 17448-2024)
for CBI (in CWP-15023-2024)

Mr. Harmanjit Singh, Advocate
for respondent No.2 (in CWP-19812-2024).

Mr. B.S. Khehar, Advocate
for respondent No.2 (in CWP-19789-2024).

Mr. M.S. Uppal, Advocate
for respondent No.5 (in CWP-18228-2024)

Mr. G.S. Bhandal, Advocate
for respondents No.2 to 4 (in CWP-23629, 21567-2024)

Dr. Neha Awasthi, Sr. Panel Counsel
for respondent No.4-UOI (in CWP-11421-2024)

Ms. Jyoti Choudhary, Advocate and
Ms. Gaganpreet Pal Kaur, Advocate
for respondent-UOI (in CWP-19789-2024)

Mr. Amanpreet Singh, Advocate
for respondent No.10 (in CWP-21078-2024)

Ms. Nikita Garg, Advocate
for respondent No.13 (in CWP-23655-2024)

Mr. Uday Agnihotri, Advocate

for respondents (in CWP-15599, 10967, 14610, 12427, 14615, 14943, 17316, 13333, 14294, 17819, 16786, 16808-2024).

Mr. Parminder Singh, Advocate
for respondent No.4 (in CWP-18502-2024).

Ms. Kavita Arora, Advocate
for respondent No.4 (in CWP-11796-2024).

Ms. Ravisha Mahajan, Advocate
for respondent No.6 (in CWP-18599-2024).

Mr. Amanpreet Singh, Advocate
for respondent No.10 (in CWP-21078-2024).

Ms. Divya Sharma, Advocate
for respondent No.1 (in CWP-24132-2024)
for respondent No.2 (in CWP-21582-2024).

Mr. Parminder Singh, Advocate
for respondent No.5 (in CWP-8071-2024).

Mr. Vishal Khatri, Advocate for
Mr. Vipul Jindal, Advocate and
Mr. Abhishek Kaushik, Advocate
for respondent No.4 (in CWP-8071-2024)
for respondent No.1 (in CWP-20148, 17265, 19067-2024)
for respondent No.28 (in CWP-19694-2024)
for respondent No.27 (in CWP-16869-2024).

Ms. Sanchi Bindra, Advocate for
Mr. Amar Virk, Advocate
for respondent No.5.

Mr. Anil Kumar Sharma, Advocate
for respondent No.2 (in CWP-15082-2024)
for respondent No.17 (in CWP-16869-2024)

Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Kanwal Goyal, Advocate
for respondent No.1 (in CWP-24972-2024)

Mr. H.S. Baith, Advocate
for respondents (in CWP-16705, 19067, 17265-2024)

Mr. J.S. Chandail, Additional Standing Counsel and
Mr. Tanmoy Gupta, Advocate
for U.T., Chandigarh (in CWP-17171, 24972-2024)

Mr. R.S. Kalra, Advocate and
Ms. Mona Yadav, Advocate and
Mr. A.S. Kang, Advocate
for respondent (in CWP-12004, 13436, 15801, 16439,

17509, 19801, 21222-2024)

Mr. N.K. Banka, Advocate
for respondent No.10 (in CWP-18795-2023)

Mr. Sanjeev Sharma, Advocate
for respondents No.1 to 3 (in CWP-13773-2024)

Mr. Gaganpreet Pal Kaur, Advocate and
Ms. Jyoti Choudhary, Advocate
for respondent-UOI.

Mr. Kanwal Goyal, Advocate and
Mr. Sanjay Kaushal, and Mr. Anurag Goyal, Advocates
for respondent-High Court.

Mr. Arav Gupta, Advocate
for respondent no.5-BBMB (in CWP No. 20118 of 2024) and
for respondent no.17-BBMB (in CWP No.18505 of 2024)

Mr. Raja Agnihotri, Advocate
for respondent No.4 (in CWP-17508-2024)

Mr. Dheeraj Siwach, Advocate and
Mr. Mahesh Dheer, Advocate and
Mr. Aman Singla, Advocate and
Mr. Amit Bhanot, Advocate
for respondent-SBI.

Mr. Naren Pratap Singh, Advocate
for respondent No.15 (in CWP-13319-2024)

Mr. Anupam Singla, Advocate and
Mr. Lalit Goyal, Advocate
for respondent No.3 (in CWP-15183, 24933-2024)
for respondent No.10 (in CWP-14916-2024)
for respondent No.41 (in CWP-23189-2024)

Ms. Sukhmani Patwalia, Advocate
for respondent No.2 (in CWP-15267-2024)
Mr. Aman Singla, Advocate and
Mr. Harshit Nain, Advocate
for respondent No.7 (in CWP-11994-2024).

Mr. Anil Gupta, Advocate for
Mr. Ashish Verma, Advocate and
Mr. Gaurav Sharma, Advocate
for respondent No.6 (in CWP-20306-2024)
for respondent No.6 (in CWP-14349-2024)

Mr. M.K. Dogra, Advocate
for respondent No.3 (in CWP-17269, 18739-2024)

Ms. Deepali Verma, Advocate
for respondent No.5 (in CWP-13279-2024)

Ms. Suraksha Sharda, Advocate and
Mr. Sagar Bathla, Advocate
for respondent No.4 (in CWP-15778-2024)

Mr. Rajeev Anand, Advocate
for respondent No.2 (in CWP-19922-2024)

Mr. Harsh Aggarwal, Advocate
for respondents No.4 (in CWP-11002, 12384-2024
for respondent No.5 (in CWP-20116, 20736-2024)

Mr. Ravi Sodhi, Sr. Panel Counsel
for respondent-UOI.

Mr. Ashutosh Sharma, Advocate and
Mr. Karanjit Singh, Advocate
for MC, Ludhiana.

Mr. Gaurav Goel, Advocate and
Mr. Ajay Rana, Advocate
for respondent-bank (in CWP-9975, 10887, 11999, 12050, 12112, 12223, 14797, 14893, 15235, 13117, 9556, 8222, 16209, 17075, 17128, 17137, 17955, 18271, 18505, 18450, 16788, 16852, 16869, 17237, 9450, 19999, 12965, 19694, 19922, 20309, 21204, 18769, 18851, 15930, 17719, 21138, 21078, 21102, 20466, 24132, 22356, 21410, 21197, 20151, 23189, 20211, 23931, 20887, 22632, 19789, 17377, 16989, 13649, 14089, 14075, 12532, 12888, 13871, 13561, 13319, 15476, 15254, 16394, 16922, 15514, 18333, 17087, 17633, 17448, 17274, 17074, 16123, 15925, 16916, 9999, 18833, 14083, 26233, 18775, 18117, 14089, 16209, 17074, 18333, 18769, 21204, 22632, 17075, 20205, 20211, 20309, 21204, 21138, 21102, 23189, 20887, 22632, 20466, 23931, 18505, 10887, 12888, 13319, 13838, 16209, 16216, 16869, 17074, 17633, 18333, 18769, 18775, 18851, 19694, 17075, 17955, 17719, 11006-2024) .

Mr. Abhay Gupta, Advocate and
Mr. Satyam Tandon, Advocate and
Mr. Anil Kumar Sharma, Advocate for respondent-BBMB.

Mr. Naren Pratap Singh, Advocate
for respondent No.15 (in CWP-13319-2024)

Mr. Harmanjit Singh, Advocate
for respondent No.2 (in CWP-19812-2024).

Ms. Adarshpal Kaur, Advocate and
Mr. Manjit Singh Rana, Advocate
for respondent No.15 (in CWP-14799-2024).
Mr. Gurminder Singh, Advocate General, Punjab with
Mrs. Anu Chatrath, Addl. A.G. Punjab and
Mr. R.P.S. Bara, Addl, A.G., Punjab and
Mr. R.S. Pandher, Sr. DAG, Punjab.

Mr. H.S. Oberoi, Advocate and
Mr. Sanjeev Sharma, Advocate and
Mr. Hoshiar Singh, Advocate for Punjab Mandi Board.

Mr. Jatinder Singh Gill, Advocate and
Mr. Gagneshwar Walia, Advocate and
Mr. R.P.S. Bara, Advocate and
Mr. M.S. Longia, Advocate and
Ms. Harpriya Khaneka Advocate and
Mr. K.S. Kharbanda, Advocate and
Ms. Poonam Joshan, Advocate and
Mr. G.S. Bawa, Advocate for respondent-PSPCL.

Ms. Adarshpal Kaur, Advocate
for respondent No.5 (in CWP-14799-2024)

Mr. Chandeep Singh, Advocate
for respondent No.5 (in CWP-11385, 11824, 12165, 12826-2024).

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LISA GILL, J.

1. CWP No. 9426 of 2023 alongwith other connected 807 writ petitions, details of which are tabulated in the schedule attached at the foot of the order, are taken up for hearing together at request and with consent of learned counsel for the parties as it is agreed that an identical question of law arises for adjudication in all writ petitions.

2. Learned counsel for parties were *ad idem* that reference to individual facts of each case are not required/relevant to be narrated in the given factual matrix as it is the identical question of law which requires adjudication for effective resolution and accordingly reply/additional affidavit on behalf of State in CWP No. 9426 of 2023 was accepted in all petitions.

3. Writ-petitioners in all the petitions are retired employees of the State of Punjab having served its various departments. All of them opted for commutation of their pension in terms of applicable provisions of Chapter 11 of the Punjab Civil Services Rules, Volume-II (for short 'PCS, Rules), Volume-II'). Question raised for consideration and adjudication is as to

whether portion of pension commuted by the pensioner should be restored after completion of 15 years from actual date of commutation as provided in Rule 11.1 (2) of PCS Rules, Volume-II or it should be restored after a lesser period i.e., about 12 years.

4. It is a matter of record that all the petitioners had opted for commutation of their pension in accordance with the applicable rules. They broadly fall in two categories i.e., petitioners whose pensions stand restored after completion of the period of 15 years from the date of commutation and those for whom the period of 15 years is yet to be completed. Petitioners have challenged Sub Rule (2) of Rule 11.1 of PCS Rules to be ultra vires the Constitution of India primarily on the premise that commuted pension stands recovered much earlier than the stipulated period and is thus unconstitutional.

5. At the very outset, it is to be noted that Rule 11.1 of the PCS Rules, Volume-II which deals with commutation of civil pension reads as under:-

> "11.1. (1) A Government employee shall be entitled to commute for a lump sum payment any portion of pension consisting of whole rupees not exceeding the portion as may be specified by the Government from time to time:
>
> Provided that maximum portion of pension which may be commuted on or after the 1st day of April, 2014, shall not exceed thirty percent of the pension which has been granted or may be granted to a Government employee under the provisions of these rules:
>
> Provided further that a Government employee against whom judicial or a departmental proceeding has been instituted or a pensioner against whom any such proceeding has been instituted or continued under rule 2.2 (b) of this Volume, shall

not be permitted to commute any part of his pension during the pendency of such proceedings.

(2) The portion of pension commuted by a pensioner shall be restored after the completion of a period of fifteen years from the actual date of commutation.

Note 1.– The commutation of an anticipatory pension will require the sanction of the Finance Department (See also sub-note below Rule 11.4 below). An explanation of the reasons of delay in the sanction of final pension should be furnished to the Finance Department alongwith the report on the title to the commutation applied for. In order to secure repayment of the commuted value of the part of an anticipatory pension paid in declaration in the form below should be obtained from the pensioner concerned along with the application for commutation.

FORM OF DECLARATION

"Whereas the (here state the designation of the officer sanctioning the commutation) has consented, provisionally to advance to me the sum of……. being the commuted value of a part of the anticipatory pension, in anticipation of the completion of the enquiries necessary to enable the Government to fix the amount of any pension and consequently the part of that pension that may be commuted. I hereby acknowledge that in accepting the advance, I fully understand that the commuted value now paid is subject to revision on the completion of the necessary formal enquiries, and I promise to base no objection to such revision on the ground that the provisional amount now to be paid to me as the commuted value of the part of anticipatory pension exceeds the amount to which I may be eventually found entitled. I further promise to repay either in cash or by deduction from subsequent payments of pension any found entitled."

Note 2.– If two different Governments within the meaning of direction in Appendix 3 to the Punjab Financial Rules, are concerned, a Government employee shall be deemed to be under the administrative control of the Government (other than

Central Government) to which the payment of the commuted value of his pension will be debited and the application for commutation shall be disposed of by that Government according to the procedure rules framed for its own employee. In cases, in which the commuted value of a pension divisible between the Central Government and that State Government is wholly chargeable to the Central Government, the application for commutation should be decided by the State Government to which the pension is partly chargeable. If, however, an application for commutation is made before the date on which the pension is sanctioned, the Government under which the applicant was last permanently employed shall be the Government competent to dispose of his application in accordance with the procedure rules prescribed for its employees.

Note 3.– No Government employee, even if belonging to a class entitled to commute ordinary pension, is entitled to commute a compassionate allowance. A commutation of such an allowance may be sanctioned by a competent authority only on proof that the proceeds of the commutation will be invested for the permanent benefit of the commuter's family.

Note 4.– These rules are also followed generally, as a matter of convenience, in respect of commutation of pension of political pensioners who are non-officials, subject to the following main reservations:–

(1) the tables of present values prescribed under rule 11.5 apply to commutation of these pensions with 10 per cent deduction;

(2) the reduction of pension by the commuted portion will take effect from the date of payment of the commuted value."

6. Rule 2 of Chapter 11 of PCS Rules, Volume-II deals with submission of applications for commutation of pension and Rule 3 of PCS Rules, Volume-II deals with report by the Accounts Officer. Rule 11.5 of PCS Rules, Volume-II, reads as under:-

> **"11.5. (1)** The lump sum payable on commutation shall be calculated in accordance with a table or tables of present values which shall be prescribed by the competent authority.
>
> **Note 1.–** The lump sum payable on commutation to Government employees who have served under more than one Government when the commutation tables applied by the different Government are not identical, shall be calculated according to the commutation table of the Government under whose rule making control they are, at the time of retirement. In the case of Government employees who are temporarily lent by one Government to another, the commutation shall be according to the table of the lending Government and in the case of those who are permanently transferred from one Government to another it shall be according to the table of the Government to which their services have been permanently transferred.
>
> **Note 2.–** In the event of the table of present values applicable to an applicant having been modified between the date of administrative sanction to commutation and the date on which commutation is due to become absolute, payment shall be made in accordance with the modified table, but it shall be open to the applicant if the modified table is less favourable to him than that previously in force, to withdraw his application by notice in writing despatched within 14 days of the date on which he receives notice of modification.
>
> (2) The table of present value is given in Annexure to this Chapter and will be applicable to all Government employees.
>
> For the purpose of this rule, the age, in case of impaired lives, shall be assumed to be such age, not being less than the actual age as the certifying medical authority may direct."

7. It is pleaded by petitioners that Sub Rule 2 of Rule 11.1 of PCS Rules, Volume-II is *ultra vires* the Constitution of India as the amount of commuted portion of pension stands recovered in approximately 11.5 years in about 135 installments along with interest accrued thereon on the prescribed rate of interest, whereas the State is recovering this amount for a

period of 15 years i.e., in 180 installments. It is pleaded that the State is recovering the amount at an exorbitant rate over and above the amount of commuted pension, which is impermissible as there can be no undue enrichment on the part of the State. Hence aggrieved, writ petitions have been filed by petitioners.

8. It is to be noted that prior to 01.12.1981, an employee was permitted to commute pension up to 1/3rd of pension and the said portion was not liable to be restored at any later date and deduction from monthly pension on account of commutation continued throughout the lifetime of the employee. As per instructions dated 08.12.1981, Government of Punjab permitted pensioners to restore surrendered proportion of pension not exceeding 1/3rd of the amount of pension after the employee attained the age of 70 years. Said decision was implemented w.e.f., 01.12.1981. Thereafter, clarification was issued on 19.05.1983 that in cases where pension is commuted not within one year of retirement but subsequently, then in such cases pension may be restored after commuted value is repaid to the Government with an addition of one year. Hon'ble the Supreme Court in case of **Common Cause (A Registered Society) and others Vs. Union of India, 1987(1) SCC 142** upheld decision of the Government of India for restoration of commuted portion of pension after a period of 15 years w.e.f., 01.04.1986 with a direction to extend the benefit to civilian employees w.e.f., 01.04.1985.

9. 5th Central Pay Commission in January 1997 recommended that employees of Central Government may be permitted to commute up to 40% of their pension and that commuted portion of pension should be restored after a period of 12 years reckoned from the actual date of commutation. Government of India on 27.10.1997 accepted the recommendation of the

5th Central Pay Commission to the extent that the employee shall be entitled to commute up to 40% of the pension, however period of restoration of commuted pension was kept intact i.e., 15 years. 4th Punjab Pay Commission vide its report dated 20.02.1998 recommended continuation of the already existing provision of commutation of pension not exceeding 1/3rd of the amount of pension with the same period of restoration in the State of Punjab and to continue with the existing commutation table and to adopt the revised table when revised for Central Government Employees. However, the Implementation Committee of the State, on considering recommendation of the 4th Punjab Pay Commission in its VIII meeting held on 26.05.1998 did not endorse the said recommendations. Implementation Committee recommended that Government of India Rules should be followed in toto i.e., allow commutation of pension up to 40% of basic pension with restoration after 15 years. Government of Punjab issued notification dated 21.07.1998 to the effect that employees retiring on or after 01.01.1996 shall be permitted to commute pension equivalent to 40% of their basic pension and commuted portion of pension shall be eligible for restoration after 15 years from actual date of commutation.

10. 6th Central Pay Commission in March 2008 recommended retention of the period of 15 years for restoration of commuted pension and new commutation table w.e.f. 01.01.2006. 5th Punjab Pay Commission in its report dated 20.04.2009 did not recommend any change either in the existing rate of 40% of commutation of pension or the period of restoration. Government of Punjab vide memo dated 17.08.2009 issued instructions for implementation of recommendations of the 5th Punjab Pay Commission and revised commutation table was introduced. 7th Central Pay Commission also did not recommend any change in either the percentage of commutation or

the period fixed for restoration. 6th Punjab Pay Commission did not find any reason to differ from the recommendations of the 7th Central Pay Commission. Recommendations of 6th Punjab Pay Commission were implemented vide memo dated 29.10.2021. Present writ petitions were filed in the year 2023-2024.

11. Learned counsel for petitioners argued that period of restoration of pension after 15 years is *per se* arbitrary and illegal, not having any rational or reasonable nexus with the purpose to be achieved. It is submitted that at an earlier point of time it was a period of 12 years after which pension was restored. Decision to increase the period from 12 to 15 years in the year 1998 is totally unjustified. Life expectancy in the State has increased, therefore there should be reduction of this period of 15 years. Learned counsel refers to the data of Sample Registration System (SRS) Based Abridged Lifetables 2013-2017 issued by Registrar General and Census Commissioner, Ministry of Home Affairs to substantiate his argument. It was vehemently argued that there was no deliberation or application of mind by the authorities when this period was increased to 15 years. Rate of interest earlier being charged was 4.57% and now it is 8%. Rate of interest which a citizen would get at that time was about 10% especially a senior citizen whereas it has drastically decreased to about 6%. It was contended that there was no quantifiable data on the basis of which the increase in this period from 12 to 15 years could be justified. Furthermore, in case an employee does pass away before the commuted portion of pension is recovered, it is only 30% of the last drawn pay which is released as family pension to the family. Learned counsel vehemently argued that present is a case of undue enrichment on the part of the State which is impermissible,

respondent-State being a welfare State. It is thus prayed that all the abovesaid writ petitions be allowed.

12. Learned Advocate General, Punjab has opposed these writ petitions while submitting that it is only after due deliberations that decision(s) at hand were taken. It was argued that commutation of pension is a voluntary measure and a benefit provided to employees. It is not mandatory for the employees to opt for commutation of pension. Application for commutation is submitted by the employee on the basis of terms and conditions existing on the date of retirement or at the time of seeking commutation of pension. All petitioners had voluntarily opted for the same with their eyes wide open and being aware of the specific terms and conditions. It was specifically argued that petitioners are estopped from raising these pleas at this stage after having opted for the benefit in question. A number of petitioners, it is submitted had retired long years ago having accepted the terms and conditions, pensions of some of them have even being restored after completion of 15 years period. Therefore, for the petitioners to now raise these pleas is not permissible. It was further submitted that action taken by the State is in accordance with law and decision(s) have been taken on the basis of number of factors with due deference to recommendations of various Pay Commissions at different stages. It was submitted on behalf of the State that apart from the fact that a decision taken in the year 1998 cannot be the subject matter of challenge at this stage by the employees, the said decision nevertheless had been taken after due deliberation and consideration. Question of commutation of pension is a matter of Policy and hinges on a myriad of factors and is not dependent upon one or two factors as has been projected before this Court. Commutation of pension, it was stated is a highly specialized exercise

involving a number of factors including not only the mortality rate, interest rate or risk factor involved being non-recoverable and unsecured advance, but includes actuarial calculations involved in determination of commutation tables and commutation factor, relevance of period increase in salary, enhanced pay scales for commutation tables etc.

13. Learned Advocate General, Punjab, submitted that in the year 1998 copies of 4th Pay Commission Report had been circulated to the Federations/ Pensioners Associations to illicit their views. Representation dated 11.09.1998 from Government Pensioners Association (Registered) was received raising various issues regarding commutation of pension but no grievance in regard to fixation of period of 15 years was flagged. Representation dated 11.09.1998 from Punjab State Pensioners Confederation was also received, but no such grievance was raised. It is thus prayed that all the abovesaid writ petitions being devoid of merit be dismissed.

14. Learned counsel representing the Banks in some of the writ petitions submitted that the Banks are merely to follow directions by sanctioning authority without any involvement in policy or decision making process. Dismissal of writ petitions was prayed for.

15. We heard learned counsel for the parties at length on more than one occasion and had perused the files with their able assistance including the record produced in Court on behalf of the State.

16. Admittedly, commutation of pension is a benefit made available to the employees/pensioners allowing them to commute 40% of their basic pension on superannuation. It enables an employee to get a lump sum amount at the time of his or her retirement or even at a later stage in order to meet his or her major commitments. Foundation or edifice of the entire

arguments led on behalf of the petitioners rests on the ground that action of the respondent-State is illegal and arbitrary inasmuch as by way of the existing terms and conditions, it is recovering an amount in excess of the commuted value of pension released in favour of the employees. Such a course is stated to be illegal and arbitrary keeping in view the fact that the State is a welfare state and is not entitled to undue enrichment at the cost of its employees. In order to buttress the arguments of undue enrichment, learned counsel for petitioners had argued that the amount released to employees in-fact stands recovered within a period of about 11.5 years. Period of 12 years, which was in vogue prior to 1998, it was submitted had been raised to 15 years in an unjustified manner while incorrectly ignoring the recommendations of 5th Central Pay Commission. It was submitted that life expectancy earlier was only around 57 years, whereas retirement age was 58 years, thereafter, increased in certain circumstances/categories to 60 w.e.f. 01.05.1998. Rate of interest charged earlier was 4.57%, but later increased to 8% per annum. Reference was made to commutation table i.e., the annexure as referred to in Rule 11.5 of PCS Rules. Specific reference was made to the difference in the years of purchase in the commutation table as substituted vide circular dated 17.08.2009 applicable to pensioners who retired from 01.01.2006 onwards and the commutation table earlier.

17. It is a matter of record that at an earlier point of time, though it was permissible to commute 1/3rd of the basic pension, there was no concept of restoration of pension. It was indeed a lifetime affair. It is subsequent to litigation before Hon'ble the Supreme Court that pension stood restored after expiry of the stipulated period. In respect to the provision for commutation of pension in PCS Rules, as per instructions dated 01.12.1981, a pensioner could commute his/her pension to the extent as mentioned which would be

restored after he/she attained the age of 70 years. Argument as raised before us is that period of 12 years for restoration has arbitrarily been increased to 15 years without any application of mind by the respondent-State.

18. At this juncture, it is relevant to refer to judgment of the Division Bench of this High Court in **Rattan Chand and others Vs. Bhakhra Beas Management Board, 2003 (2) SCT 893,** wherein it has been held that it was not the position that commuted value of pension is always restored after 12 years. Reference was made to a situation where a pensioner would commute his/her pension after the age of 58 years. Relevant portion of the said judgment reads as under:

> "22. The position in fact is quite different. The instructions dated 1.12.1981 did not provide for restoration of commutation pension after 12 years. What was provided was that in case where a pensioner commuted his pension and received lump sum thereof, may be allowed restoration of the surrendered portion of the pension after he has attained the age of 70 years. The Hon'ble Lok Adalat in all probability took it to be 12 years by taking the retirement age of an employee to be 58 and that a retiree at the time of his retirement would commute his pension. In such a situation, the restoration of the surrendered portion of pension would work out to 12 years as it would be restored when the pensioner reaches the age of 70 years. In such a situation there is a period of 12 years from the age 58 to that 70 years of a retiree. However, what would be the position if a retiree commutes his pension after he attains the age of more than 58 years. This has been explained by the Government in its subsequent instructions dated 19.5.1983, wherein a hypothetical example has been given. It is that a pensioner may get pension commuted after the age of 69 years and then get it restored after the age of 70 years in terms of the letter dated 1.12.1981. The instructions dated 19.5.1983 was issued in order to plug these type of loopholes and it was ordered that the restoration of

commuted portion of pension would be allowed in future after attaining the age of 70 years and in case where pension was commuted during the first year after retirement and in other cases where the pension is commuted in subsequent years, the pension may be restored after the commuted value is repaid to the Government by way of reduced pension. This position has been explained by way of example in the said letter dated 19.5.1983 as referred to above.

23. Therefore, the position is that the commuted value of pension is not always restored after 12 years as held in Darshan Lal Jaggi's case (supra). It would vary depending upon the date it is commuted and the age of the pensioner at that time. In case the pension is commuted when the pensioner is 58 years, then in such a situation, the restoration of the surrendered portion which is allowed at the age of 70 years. This period from 58 years to 70 years of a pensioner would work out to 12 years. This would not be the position if a pensioner commutes his pension after more than 58 years. It appears that the instructions dated 13.5.1983 were not brought to the notice of the Hon'ble Lok Adalat. Therefore, in our view it would not be correct to say that the earlier the commuted pension was always restored after 12 years. Rather 15 years period of restoration of pension has now been standardised and the commuted value has been increased from 33% to 40%."

19. A similar controversy had been raised in case of **Forum of Retired IPS Officers (Foripso) Vs. Union of India and another, 2019(2) AD (Delhi) 581**, challenging Rule 10.9 of the Central Civil Services (Commutation of Pension) Rules, 1981, which provided for recovery of the amount of commuted pension in 15 years and petitioners therein sought a direction to respondents to reduce the period of recovery from 15 years to actual recovery period of commuted amount i.e., years of purchases without interest with an addition of two years. Arguments as raised in the said petition and as noted by the Delhi High Court read as under:-

"7. The petitioner claims that restoration of commutation of full pension after 15 years is arbitrary and lacks a mathematical basis and foundation. Retirement age for central government employees was raised to 60 years with effect from 1st May, 1998. Commutation factor in view of increase in age of retirement would stand reduced from 10.46 applicable at the age of 59 years to 9.81 applicable at the age of 60 years. As per the new commutation table made effective from 2nd September, 2008 the commutation factor has been downgraded from 9.81 to 8.194 for 60 years. Notwithstanding the aforesaid reduction in the commutation factor, the period for restoration of commuted pension has been retained and continues to be 15 years. Secondly, permissible commutation was increased from 33% of the basic pension to 40% of the basic pension. Thirdly, the respondents for the purpose of commutation i.e. for quantifying the percentage of amount to be paid on commutation, had based the table on interest payable @ 4.75% per annum, which interest was increased/enhanced to 8% per annum in the new table for the retirees with effect from 2nd September, 2008. Fourthly, the commutation provisions have not kept up with time as the life expectancy has increased from 57 years in 1987 to more than 68.5 years at present. Average life expectancy for the relevant group, i.e. the government servants as per WHO statistics is 77 years. Government servants have a much higher life expectancy than the national average. Further the commuted pension is paid to retirees after they clear the medical examination/screening which reduces the risk factor of an early death. In support of the contentions, reference was made to Chapter 136 of the report of the Fifth Central Pay Commission, which had recommended reduction of the period of recovery of commuted pension to 12 years from 15 years. This recommendation, it was argued, was unjustifiably and arbitrarily not accepted by the Central Government, though some State Governments like Kerala, Madhya Pradesh, Orissa and Punjab had permitted restoration of full pension after 12 years of commutation."

20. It was held in the case of **Forum of Retired IPS Officers (Foripso) Vs. Union of India and another (supra)** that issues related to commutation of pension, factor to be applied, restoration of full or part of the pension are complex and vexed questions being subject matter of several Pay Commission Reports. Actuarial calculations besides financial implications make the administrative exercise convoluted and tedious. The Court would thus not step into the cumbersome exercise and interfere until and unless there is complete arbitrariness and discrimination which is ex-facie apparent. It was held as under:-

> "16. Increase in life expectancy and its effect on commuted pension cannot be viewed in isolation. Several factors, figures and the entire pension provisions on the whole including cost to the exchequer have to be taken into consideration. Commutation table can take into consideration periodical increase in salary and better saving capacity during service period due to increase and enhanced pay scales. Courts would hesitate and not go by one formula and mathematical calculations on assumption and precept that the formula would be more fair, just and appropriate. There can be many formulas. Calculations are complex, convoluted and a tricky task. Fixation of payment of pension or commutation of pension, etc. are highly difficult and cumbersome exercise which the Court would not like to step into, undertake and even interfere unless there is complete arbitrariness and discrimination that is ex-facie apparent. Courts on perceived wisdom would not declare the table as flawed, acting and preforming the role of an actuarial. Every government, including the Central Government, has to take into consideration their available resources and funds, for any increase and enhancement in pension requires money which may well have to be diverted from other schemes or would result in reduction of funds available for poor, the marginalized and needy.
>
> 17. Pension, commutation of pension, etc. are policy matters, which are examined and decided on the basis of recommendations of the Pay Commissions by the authorities. No doubt, an executive order or policy decision is not beyond the scope of judicial review

> but the Courts do not go into the nitty gritty of the policy to substitute the table by making various computations and calculations, which are possible by different formulas or by applying a particular formula. Broadly, policy decisions can be subjected to judicial review when they are unconstitutional being de hors the provisions of the Act and the Regulations, if the delegatee has acted beyond its power of delegation and if the executive policy is contrary to the statutory or larger policy in matters of price fixation, pay fixation, etc. Courts would not interfere unless formula or method adopted is per se and ex facie irrational, arbitrary or can be struck down on the four grounds mentioned above."

21. The aspect regarding the change in interest from 4.75% to 8% per annum and the improvement in life expectancy were also considered, but the Court found no ground to cause interference. In the instant case, the 5th Central Pay Commission had recommended commutation of pension up to 40% of the pension and restoration after a period of 12 years reckoned from the actual date of commutation. Admittedly, Government of India on 27.10.1997 accepted recommendation of the 5th Central Pay Commission to the extent that employee shall be entitled to commute 40% of the basic pay, though period of restoration of commuted pension was kept intact i.e., 15 years.

22. As noted in the foregoing paras, 4th Punjab Pay Commission recommended continuation of commutation of pension not exceeding 1/3rd of the amount of pension with the same restoration period and to continue with existing commutation table and to adopt revised table when notified for Central Government Employees. It is a matter of record that Implementation Committee on considering recommendations of the 4th Punjab Pay Commission on 26.05.1998, recommended following of the Government of India Rules in toto i.e., commutation of pension to be allowed upto 40% of basic pension and restoration after 15 years. It is in pursuance thereto that

notification dated 21.07.1998 was issued deciding that employees retiring on or after 01.01.1996 will be permitted to commute pension equivalent to 40% of their basic pension and restoration would be permitted after 15 years from the actual date of commutation.

23. Learned Advocate General, Punjab, had produced copies of relevant notings in April 1998 which reflect that copies of the 4th Pay Commission Reports were circulated among various federations and associations of the State of Punjab, the list of which was available therein asking them to submit their views to the Director Pensions, who was further directed to consider their views and send his recommendations. Representation dated 11.09.1998 submitted by Government Pensioners Association (Registered) subsequent to issuance of notification dated 21.07.1998 was also pointed out, wherein various grievances had been raised by the pensioners, but no such grievance regarding fixation of period of restoration to 15 years from 12 years was raised.

24. It is to be noted at this stage that on an earlier occasion some of the pensioners had raised a claim regarding calculation of 40% of basic pension to be multiplied by 10.46 factor of the year of purchase value and further multiplied by 15 corresponding to the restoration period of 15 years. Said pensioners had claimed that multiplier of 12 had been incorrectly applied while calculating the commuted portion of pension. Thus, they had received 20% less amount of the commuted value of their pension. The matter came to be decided in case of **T.R. Singla and others Vs. State of Punjab and others, 2003 (3) SCT 809** and by Division Bench of this High Court in **Rattan Chand and others Vs. Bhakhra Beas Management Board and another (supra)**. No such ground as is raised in the present writ petitions was raised at that point of time. In the case of **T.R. Singla and**

others Vs State of Punjab and others (supra), an argument had been raised that the respondent would be recovering much more than the amount released to them. This argument was negated while holding as under:-

> "24. Next contention of the counsel for petitioners that, since no change has been effected in the Commutation Table, which was formulated keeping in view interest @ 4.75% per annum and the mortality rate, by ordering restoration of commuted portion of pension after 15 years, respondents will be recovering more while paying less in this process. He contended that in a welfare State, such a policy is not justified. Apparently, this argument raised by the counsel for petitioners seems to be attractive but the same cannot be sustained in view of the fact that by commuting portion of pension and paying that portion in lump sum to a retiree, respondent Government is taking a grave risk. Many risk factors are to be taken into consideration. Payment of commuted portion of pension is not in the form of loan or recoverable advance. It is one time irrecoverable settlement and if a pensioner survives till the period fixed for restoration, portion of pension commuted is restored and pensioner starts receiving full pension again. In case a pensioner dies before the expiry of period of restoration, his dependents are granted family pension and no recovery against commuted value is made. To cover this risk factor, Government may recover somewhat more amount towards payment of amount of commuted portion of pension which is to be recovered within a period of 15 years. Even in that case, still, interest on the amount recovered will be much less as compared to the one prevalent in banking transactions.
>
> xxxx xxxx xxxx
>
> 27. It is also necessary to mention here that vide instructions Annexure P-4 commuted portion of pension has been increased from 1/3rd to 40% of basic pension. In this manner, a retiree will get more in lump sum. By extending period of restoration by 3 years, no injustice appears to have been done to the pensioners by the government. Amount paid in lump sum will increase

> many folds during the period of restoration and in this manner the arrangement will, still, remain profitable to the retiree. Furthermore, the provisions regarding commutation of pension are optional. It is for the employee to opt for the same or not. It is necessary to move an application to get this benefit. If any of the retiree feels that this provision is not beneficial, he may opt out of the Scheme and in that event he will continue to get his full pension throughout his life.

25. Learned counsel for petitioners were at pains to indicate that the 6th Central Pay Commission had recommended periodical revision and review of commutation tables keeping in view the interest rates and mortality rate. While referring to Sample Registration System (SRS) Based Abridged Lifetables 2013-2017 issued by Registrar General and Census Commissioner, Ministry of Home Affairs, it was contended that palpable change is indicated in mortality rate which calls for a relook by the authorities on the issue in question. In respect to this argument, we take note of the response of State of Punjab by way of additional affidavit dated 04.11.2024 of Saroj, Under Secretary to Government of Punjab, Department of Finance, in CWP No. 9426 of 2023 stating therein that as per data supplied by Department of Health State of Punjab, based on the Sample Registration System (SRS) statistical data issued by Registrar General and Census Commissioner, Ministry of Home Affairs, Government of India, death rate in the State of Punjab is higher since the year 2019 than that of the Country as a whole.

26. It is pertinent to note at this stage that the 7th Central Pay Commission did not recommend any change in respect to commutation of pension including the period of restoration. The 6th Punjab Pay Commission on considering the report of the 7th Central Pay Commission as well as the

representations of the Employees Association did not find any reason to differ and did not recommend any change. The observations and recommendations as reproduced in affidavit dated 04.11.2024 read as under:-

> **"Observations and recommendations**
>
> 8.11.3Employee Associations have represented that the commuted pension needs to be restored after 12 years and the commutation be allowed @ 40% of the pension as was previously the case. Moreover, the existing rate of commutation is 40% for Central Government pensioners.
>
> 8.11.4The 7th CPC has not recommended any change either in maximum percentage of commutation or in the period of restoration. It has in this context referred to the Supreme Court judgment of 09.12.1986 wherein the hon'ble court specifically observed that though the amount is recovered in 12 years yet since there is a risk factor and some of the States are restoring pension after 15 years, the existing period of restoration should be retained.
>
> 8.11.5The Commission has no reason to differ and recommends that the rate of commutation be raised to 40% with no change in the period of restoration of the commuted amount."

27. It is a matter of record that all the petitioners before us are retired employees who have admittedly availed of the benefit of commutation of pension. Admittedly, pension of some of the employees also stands restored. All the petitioners were in service at the time of issuance of notification dated 21.07.1998. They never raised any objection to the stipulated period of 15 years for restoration of pension. Having availed of a benefit which is clearly voluntary in nature, it is not open to the petitioners to raise the grievances as noted above, at this stage, to seek a variation in the terms and conditions accepted by them with open eyes. They are not entitled

to seek recovery of the amount so deposited by them in accordance with the accepted terms and conditions.

28. In this factual matrix, the argument that it is a continuing cause of action as it pertains to pension, is clearly unacceptable. There is no question of any direction to the State to restore pension on expiry of 11.5 years or 12 years as prayed for or to refund the amount so recovered. It is necessarily for the State to take a considered decision thereon after delving into the complex questions and underlying parameters which would be involved for assessment of the issues. Admittedly, matters related to commutation of pension are complex affairs involving vexed issues traversing diverse field which calls for application of specialized expertise. It is a settled position that in such matters the Court would venture only in case of manifest and apparent arbitrariness. Learned counsel for petitioners were unable to point out any material on record to indicate that the formula adopted is per se and ex facie irrational or arbitrary which calls for interference by this Court.

29. At this stage, we take note of the specific stand of the State as projected before us that it would be ready to examine the scheme/period of commutation while taking into consideration changes, if any, in underlying parameters and that an Expert Committee would be constituted in this respect which would be assisted by Recognized Expert Agency or Institution(s) which possess requisite knowledge and competence in assessing such matters. In this process the Committee would also invite and consider submission and representations in the matter from Associations of pensioners in the State.

30. Keeping in view the fair stand on the part of the State, we do not find any ground for issuance of any particular direction in this regard except to

observe that in terms of the stand as projected before us, it is expected that necessary steps in this regard would be taken expeditiously by the State.

31. Keeping in view facts and circumstances as narrated and discussed in foregoing paras, all the 808 writ petitions are dismissed with no order as to cost. It is clarified that the State is entitled to effect recoveries which were stayed by way of interim orders in the writ petitions. Such recovery however be made in a staggered manner to obviate any hardship to the pensioners.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

November 27,2024.
s.khan

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