

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

**C.W.P. No.6885 of 1993 (O&M)
Date of Decision : 04.05.2015**

Ex. Hav. Bhim Singh

..... Petitioner

Versus

Chief Secretary to Government of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ashok Sharma Nabhewala, Advocate
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl.A.G., Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

The claim in this petition is for the grant of all benefits of military service during 1st emergency to the petitioner.

The solitary ground taken to deny the same is that by notification dated 05.11.1976 the State of Haryana had laid down that a person which has been released from the Military Service on compassionate grounds shall not be entitled to any concessions under this Rule.

Learned counsel for the petitioner has argued that this identical issue came up for hearing in this Court in LPA No.306 of 1997 titled as *The State of Punjab and others vs. Malkiat Singh*, decided on 27.08.2010,

wherein a Division Bench held as follows:-

*“In the third category of cases, there was only one writ petition i.e. CWP No. 9215 of 1992, wherein under the Rules of 1965, the benefit of military service rendered during the period of Emergency was denied to the petitioner on the ground that he was discharged from the armed forces on compassionate grounds. This issue was already settled by the Hon'ble Supreme Court in **Raj Pal Sharma and others v. State of Haryana**, AIR 1985 S.C. 1263, wherein a proviso added to Rule 4 of the Rules of 1965 to the effect that a person who has been released from the armed forces on compassionate grounds would not be entitled to the benefit under the Rules, was held to be ultra-vires of Articles 14 and 16 of the Constitution of India. In that case, the Hon'ble Supreme Court has followed its earlier decision in **K.C. Arora's case** (supra) and it was held that the benefit of military service cannot be denied to the ex-servicemen under Rule 4 of the Rules of 1965, merely because they were released from military service on compassionate ground. The ground on which they were released are immaterial. If once they are held to be ex-servicemen, they are entitled to the benefits of Rule 4 of the Rules of 1965. The learned Single Judge, while relying upon the said decision, has held that the benefit of military service was illegally denied to the petitioner in that petition on the aforesaid ground. Accordingly, the appellants were directed to grant benefit of military service rendered by the petitioner during the period of Emergency.*

During the course of arguments, learned counsel for the appellants could not point out any illegality in the order passed by the learned Single Judge in the writ petition of the third category. He also failed to controvert the aforesaid legal position and could not cite any contrary judgment.”

Learned Additional Advocate General has not been able to dispute the applicability of the aforesaid decision in the present case.

In the circumstances, the petition is allowed. The respondent No.2 is directed to compute the benefit of military service accruing to the petitioner and release the same to him within a period of three months from the date of receipt of a certified copy of this order, failing which, he would be entitled to claim the same with interest @ 8% per annum from the date/s the amount/s fell due till the date/s of payment.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

May 04, 2015

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**(AJAY TEWARI)
JUDGE**