

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

**Civil Writ Petition No.7520 of 1994 (O&M)
Date of decision: 08.07.2015**

Ram Dia

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aashish Gupta, Advocate.
for the petitioner.

Mr. Samarveer Singh, DAG, Haryana,
for the respondents.

Ritu Bahri, J.

The petitioner is seeking a writ in the nature of certiorari for quashing the impugned order dated 06.09.1993 passed by the Director of Fisheries, Haryana-respondent No.2, whereby military service benefits were declined to him. He is also seeking direction to the respondents to grant the benefits of military service rendered by him during the promulgation of emergency.

Earlier the Ram Dia-petitioner had approached this Court by way of CWP No.8562 of 1993 claiming benefit of military service rendered during the period of emergency. The said writ petition was disposed of vide order dated 20.07.1998 (Annexure P-4 by giving directions to the respondents to consider the case of the petitioner in view of the judgment delivered by the Hon'ble Supreme Court in **Raj Pal Sharma and others Vs.**

State of Haryana and others, 1985 (Supp.) SCC 72 within a period of three

months.

In compliance with the aforesaid order (Annexure P-4) passed by this Court, respondent No.2 passed the impugned order dated 06.09.1993 (Annexure P-5) and rejected the case of the petitioner on the ground that he had been released on compassionate ground and his case was covered by the notification dated 5th November, 1976, whereby the benefits could not be extended to Ex-servicemen who were released on compassionate grounds. At the same time, instructions dated 04.08.1986 (Annexure R-2) have been annexed with the written statement. These instructions were issued after the judgment given by the Hon'ble Supreme Court in **K.C. Arora Vs. State of Haryana**, (1984) 3 SCC 281. Vide instructions dated 04.08.1986 (Annexure R-2), the earlier instructions dated 28.05.1985 were modified as under:-

“(i) Ex-servicemen employees who have earlier been granted benefit of the entire military service i.e. including the service for the period before or after Emergency, following the orders of the Courts in their cases, would now be given the benefit of military service rendered by them during the period of emergency i.e. from 26.10.1962 to 10.01.1968. The benefit of the excess period of service, if granted, would be withdrawn.

(ii) The benefit of military service would be eligible to those ex-servicemen also who joined the service before the emergency but continued to do military service during the emergency period. The credit of military service in such cases would be limited to a period of service rendered during the Emergency period.”

As per above said modification, only the benefit of service rendered during emergency i.e. from 26.10.1962 to 10.01.1968, was to be given towards civil service. It was further clarified that Ex-servicemen, who had joined the civil service after issuance of these notifications would continue to be governed by these notifications. The retrospective effect of this notification has been set aside by the Hon'ble Supreme Court in **K.C.**

Arora's case (supra). Hence, the benefit of military service had to be extended in view of the instructions dated 04.08.1986 (Annexure R-2). A perusal of these instructions does not show that the petitioner was not covered by the said benefit. In **Raj Pal Sharma's** case (supra), the notification denying the benefit to military persons, who were released on compassionate ground, had been set aside. In review petition in case **Ex. Capt. A.S. Parmar and others Vs. State of Haryana and others**, 1986 AIR (SC) 1183, the Hon'ble Supreme Court had merely clarified that the benefits would be admissible for the service rendered during emergency period i.e. from 26.10.1962 to 10.01.1968. The Hon'ble Supreme Court while disposing of the review petition did not interfere in the decision given in **Raj Pal Sharma's** case (supra).

After the decision given in **A.S. Parmar's** case (supra), the Haryana Government had issued the notification dated 04.08.1986 (Annexure P-4) and clarified that the benefit of military service will be counted towards seniority etc. In view of the above, the order dated 06.09.1993 deserves to be set aside.

Accordingly, the impugned order dated 06.09.1993 (Annexure P-5) is set aside and the respondents are directed to release the benefits of military service admissible to the petitioner along with costs of Rs.50,000/-.

Petition stands allowed accordingly.

08.07.2015
ajp

(RITU BAHRI)
JUDGE