

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23235 of 2015

DATE OF DECISION: OCTOBER 31, 2015

JC-64876 A SUB (RETD.) CHARANJIT RAI & ORS ...PETITIONERS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes/No

PRESENT: MR. SUDHANSHU MAKAR, ADVOCATE
FOR THE PETITIONERS.

M. JEYAPPAUL, J.

1. Aggrieved by the dismissal of the claim made by the writ petitioners for pensionary benefits as admissible to Junior Commissioned Officers (for short 'JCOs') of the regular Armed Forces and other consequential service benefits on the principle of equal pay for equal work, they have preferred the present writ petition.

2. The writ petitioners who were the employees of Postal Department were sent on deputation to Army Postal Service (for short 'APS') in response to Notification dated 9.10.1957, as amended by Notification dated 22.10.1977 calling for volunteers to serve on deputation with the APS. The terms and conditions of service for Post and Telegraph Non-Gazetted Personnel on deputation to APS read that the deputation of engagement would be for 18 months and thereafter, for a period as their services might be required. The composition of APS is 75% from Post and

Telegraph Department on deputation and 25% from directly recruited Army personnel. The writ petitioners on completing age of compulsory repatriation were relieved from APS to their parent Department. They also sought voluntary retirement from their parent Department and the same was accepted by the competent appointing authority.

3. The plea of the writ petitioners is that they had been kept on deputation for about 25 long years without seeking their written consent for continuing in APS on deputation. They also contended that they were carrying out the same job as that of their counterparts recruited directly by Army and therefore, they are entitled to the same pensionary and other benefits as that of directly recruited Army personnel.

4. The Tribunal held that the writ petitioners had put in such a length of service voluntary without protesting against the continuance of deputation. Further, they were governed by the terms and conditions of deputation. Therefore, it was held by the Tribunal that the question of granting service benefits including pensionary awards to the writ petitioners as admissible to the JCOs of the regular Armed Forces does not arise for consideration.

5. Learned counsel appearing for the writ petitioners vehemently submitted that the principle of equal pay for equal work was not adhered to by the respondents. Further, it is his submission that the writ petitioners had put in about 25 years of service even after a short period of deputation of 18 months was over. Therefore, it is unfair and unjust to decline pensionary benefits as admissible to the JCOs of regular Armed Forces, it was

submitted.

6. We find that there is no force in the submissions made by learned counsel appearing for the writ petitioners. The writ petitioners had been sent on deputation only after eliciting their voluntariness to serve in the APS. As per the terms and conditions of deputation, it is found that only volunteers had been taken on deputation to service in APS. Further, the terms of deputation would disclose that even after the expiry of 18 months, the persons sent on deputation might serve so long as their services were required. In other words, continuance in the Army Postal Service was purely voluntary. They can, at any point of time, make a request to send them back to the parent Department. The Tribunal has rightly noted that there was nothing on record to show that the writ petitioners served beyond the short period of 18 months against their wishes. It appears that the writ petitioners had enjoyed the deputation in APS and completed their term till they were compulsory repatriated on attainment of 56 years. Therefore, we find that there is no substance in the plea of the writ petitioners that they were retained by the respondents in the APS against their wishes.

7. The writ petitioners had served on deputation for about 25 long years. They had also been promoted as per the terms of the deputation. But their service condition is totally different from the service condition of 25% of personnel directly recruited by the Army to man the APS. The writ petitioners are governed by the terms and conditions of deputation and their service conditions in their parent Department, whereas the directly recruited Army personnel of the APS are governed by the Service Rules in the Armed

Forces. Just because the writ petitioners had discharged the very same nature of duty assigned to Army personnel they cannot make a claim for pensionary awards as applicable to JCOs in Army against their service conditions. Therefore in our view, the Tribunal has rightly dismissed the claim of the writ petitioners.

8. We find that there is no merit in the writ petition and therefore, it stands dismissed.

(M. JEYAPPAUL)
JUDGE

October 31, 2015
Gulati

(DARSHAN SINGH)
JUDGE