

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.3705 of 2015
Date of Decision: March 02, 2015

Union Territory, Chandigarh Administration and
anotherPetitioners
versus
Vijay Kumar Godwal and anotherRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE NARESH KUMAR SANGHI.

Present:Mr.Kapil Kakkar, Advocate, for the petitioners.

:-

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?

Surya Kant, J. (Oral)

The order dated 5th September, 2014 passed by the Central Administrative Tribunal, Chandigarh Bench, is under challenge at the instance of the Chandigarh Administration. The Tribunal has directed the petitioner-Administration vide that order to re-consider the first respondent's claim for the grant of increment on account of the military service rendered by him during the Second National Emergency from 03.12.1971 to 25.03.1977.

Some of the undisputed facts are to the following effect.

The first respondent served the Indian Army during the above-mentioned period of second emergency. After discharge from Army, he joined the petitioner-Administration on 07.09.1994 and has already retired on attaining the age of superannuation w.e.f. 30.04.2011. The first respondent

represented the Administration to grant him the benefit of military service rendered by him during second national emergency, towards increment, seniority and pension in terms of the Punjab Government National Emergency (Concession) Rules, 1965. He also relied upon the Punjab Government notification dated 15.10.2009, whereby the benefit of military service rendered during the second national emergency was made admissible to a limited extent. Reliance was also placed on a letter dated 18.02.2010 of the Chandigarh Administration, adopting the above mentioned Punjab Government notification dated 15.10.2009.

The only plea taken by the petitioner-Administration before the Tribunal to oppose the first respondent's prayer was that he did not approach the Tribunal with 'clean hands' as 'his representation was pending consideration' and he ought to have awaited its outcome.

The Tribunal vide order under challenge has referred to Rule 8-A and Rule 8-B contained in the Punjab Government notification dated 15.10.2009, i.e., the Punjab Recruitment of Ex-serviceman (First Amendment) Rules, 2009, as further amended on 10.04.2012. Vide these provisions, the ex-servicemen have been extended the benefit of military service rendered by them during second national emergency, for two reliefs, namely, increment and pension and not towards seniority. The Tribunal has further observed that the benefit of above-mentioned service towards pension is admissible only if the ex-serviceman is getting the civilian pension and not military pension. As regard to the increment, the Tribunal has rightly held that the same is admissible on the first civil employment after discharge from military service.

According to the Tribunal, since respondent No.1 has not mentioned in the Original Application that he was not recipient of 'military pension', the benefit of military service rendered during second national emergency cannot be granted for the purpose of pension. In this manner, the claim of respondent No.1 survived qua the grant of increment only. A direction to this effect has thus been issued.

Having heard learned counsel for the Administration, we find no ground to interfere with the impugned order. The Tribunal has correctly appreciated the scheme of the amended rules notified by the State of Punjab and adopted by the Chandigarh Administration whereunder only limited benefits are admissible in respect of military service rendered during second national emergency. The Tribunal has granted the relief to the first respondent within the periphery of those limits only.

Dismissed.

[SURYA KANT]
JUDGE

March 02 , 2015
Mohinder

[NARESH KUMAR SANGHI]
JUDGE