

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

**RSA No.1984 of 2011 (O&M)**

**Date of Decision: September 07, 2015**

**Amarjit Singh**

**.... Appellant**

**vs.**

**State of Punjab and another**

**.... Respondents**

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

**Present:** Mr. R.K. Arora, Advocate for the appellant.

Mr. T.N. Sarup, Addl. Advocate General, Punjab.

*1. Whether Reporters of Local Newspapers 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?*

**Kuldip Singh J.**

Impugned in the present regular second appeal is the judgment and decree dated 15.06.2010 passed by learned Addl. District Judge, Gurdaspur, reversing the judgment and decree dated 28.08.2004 passed by learned Civil Judge (Jr. Divn.), Batala and dismissing the suit of the plaintiff with costs whereas, learned Civil Judge (Jr. Divn.), Batala had decreed the suit of the plaintiff and granted declaration in favour of the plaintiff, that he shall be entitled to the increments in accordance with the Rules for the period of service rendered by him during the proclamation of emergency. The defendants were directed to compute the benefits in accordance with

the observations of the lower court for the purpose of adding the increments, which the plaintiff would have been entitled to and for the consequential benefits in terms of pension, if granted, no such increments, affects his pension.

Undisputed facts of the case are that the plaintiff had joined Army service on 30.11.1962 and was discharged on 15.09.1981 (afternoon). Thereafter, he applied for the post of driver against the quota of ex-serviceman and was accordingly appointed and joined as such on 27.04.1982. He retired from the service as a driver on 30.11.2000. He claimed that he has not been given benefits of the emergency period from 26.10.1962 to 10.01.1968.

It is also not disputed that the President of India had proclaimed National Emergency in India under Article 352 of the Constitution of India from 26.10.1962 to 10.01.1968 on account of Chinese Aggression. The question involved is as to whether the plaintiff, who had joined the service before proclamation of Emergency, is entitled to the benefits of service during the period in which the Emergency remained in proclamation?

I have heard learned counsel for the parties and have also carefully gone through the case file.

The law point has been settled by this Court in case of ***“The State of Punjab and others vs Malkiat Singh”*** passed in LPA No.306 of 1997, decided on 27.08.2010, in which the Division Bench of this Court took the view that even if the petitioner had joined the armed forces prior to the declaration of Emergency, he would also be

entitled to the benefits of military service rendered during the period of Emergency in accordance with Rule 4 of the Punjab Government National Emergency (Concession) Rules 1965. It has been observed as under:

*“---- It is admitted position that the Rules of 1965 were not amended by the Punjab Government, as amended by the Haryana Government. Therefore, in our view, the learned Single Judge has rightly come to the aforesaid conclusion that the benefit of military service during the Emergency period has to be granted even to those persons, who had joined the armed forces even prior to the declaration of Emergency.”*

The said authority is applicable in full facts of the present case. Accordingly, the plaintiff is entitled to the benefits of the military services rendered during the period of Emergency in accordance with Rule 4 of the Rule(*ibid* ). The plaintiff had already retired from the service of driver on 30.11.2000 and he filed the suit on 24.01.2001. Now the question would arise that as to from which date the benefits are to be allowed?

In similar circumstance in case of **“Saroj Kumari vs Sate of Punjab”, 1998(3) SCT, 664**, this Court restricted the arrears up to 38 months from the filing of the petition and disallowed the arrears for which the suit has become time-barred.

In terms of the law laid down by this Court, it is held that the plaintiff is allowed to the benefits of military service rendered during the period of Emergency in accordance with Rule 4 of the

Rule (*ibid*) towards his pay, increments, seniority, pension and other retiral benefits etc. However, he will be entitled to the arrears only for 38 months prior to 24.01.2001.

The present appeal is, accordingly, allowed.

**September 07, 2015**  
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**(KULDIP SINGH)**  
**JUDGE**