

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 18584 of 2015

Date of Decision: 26.10.2016

JAGTAR SINGH

... *Petitioner*

V/s

DIRECTOR GENERAL OF POLICE AND OTHERS

....*Respondents*

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. R.K. Dadwal, Advocate,
 for the petitioner.

 Mr. P.S. Bajwa, DAG, Punjab.

KULDIP SINGH, J (ORAL)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India seeking writ of mandamus directing the respondents to count the military service rendered during the 2nd National Emergency from 03.12.1971 to 25.03.1977 for the purpose of pensionary benefits and consequently release the pension to the petitioner alongwith interest.

Brief facts of this case are that the petitioner joined the Indian Army as Sepoy on 04.12.1975 and was discharged from Indian Army on 31.12.1992. Subsequently, he was granted pension by the Indian Army. He also served in the Army during the 2nd National Emergency w.e.f. 03.12.1971 to 25.03.1977. Later on, after a gap of one year and four months from his discharge from the services of Indian Army, the petitioner joined as Sepoy in respondent-department on 07.05.1994 and ultimately retired as Constable on 23.03.2011. The petitioner claimed that he is entitled to the benefit of military service rendered during the 2nd National Emergency for the purpose of pension.

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

Learned counsel for the petitioner has relied upon the judgment of the Division Bench of this Court passed in a bunch case, leading *CWP No. 17661 of 2013* titled as *Rajinder Singh Vs. State of Punjab and others* wherein the following was passed: -

“ It is the admitted position that none of the petitioners were in the service of the government as on 1.12.2011 as all of them had retired earlier. However, so far as the pension is concerned, as there is no stipulation in the 2009 Rules that the benefit of military service during the Second National Emergency towards pension would be given only to those incumbents who joined the military service during the Second National Emergency period, all the petitioners would be entitled to the grant of military service benefit towards pension.”

The perusal of the above mentioned authority shows that the present case is squarely covered under the same.

However, learned State counsel has stated that vide order dated 21.12.2005 and order dated 23.12.2015 (*Annexures R-1/1 and R-1/2*), the benefit of military service rendered by the petitioner during 2nd National Emergency has been extended to the petitioner and re-fixed the pension and other retiral benefits have been released. However, in the said order there is no mention that the said benefit is on account of 2nd National Emergency.

It being so, the present petition stands allowed and the service of the petitioner rendered in the Indian Army during 2nd National Emergency is ordered to be counted for the purpose of pension, if not counted earlier. In case, the said benefit has not been extended to the petitioner earlier, the respondents are directed to re-fix the pension of the petitioner. The pension

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be re-fixed and released to the petitioner within two months from the date of receipt of copy of this order.

In view of the above the petition stands allowed.

October 26, 2016
Suresh Kumar

(KULDIP SINGH)
JUDGE

	✓	
<i>Whether speaking / reasoned</i>	<i>Yes</i> / <i>No</i>	
		✓
<i>Whether Reportable</i>	<i>Yes</i> / <i>No</i>	