

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 22554 of 2015 (O&M)

Date of Decision: 12.07.2016.

Vrinder Singh Yadav

--Petitioner

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. S.K. Yadav, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

The instant writ petition assails the order dated 12.11.2014, passed by the Director, Elementary Education, State of Haryana in terms of which the claim of the petitioner to grant to him benefit of service rendered by him during the Second National Emergency from 17.10.1974 to 3.7.1977 (2 years 8 months and 16 days), has been declined.

During the course of arguments counsel appearing for the petitioner inspite of a specific query having been put has not been able to advert to any statutory rule/regulation or Govt. policy/Executive Instructions on the strength of which the claim set up by the petitioner was admissible.

Perusal of the impugned order dated 12.11.2014 (Annexure P-8) would reveal that the claim of the petitioner has been rejected in the light of instructions dated 7.10.1991 issued by the Chief Secretary, State of Haryana on the subject of granting of military service benefits to ex-service men under the Punjab Govt. National Emergency (Concession) Rules, 1965 and as per which the petitioner was not entitled for grant of benefit for service rendered during the Second National Emergency for the period

17.10.1974 to 3.7.1977. As per instructions dated 7.10.1991 the State of Haryana has granted benefits of military service rendered during the period of First National Emergency i.e. w.e.f. 26.10.1962 to 10.1.1968.

Counsel does not even dispute the scope and ambit of the instructions dated 7.10.1991 issued by the State of Haryana as regards confining of benefit of military service rendered only with regard to the First National Emergency.

Counsel has however raised a plea of discrimination and argues that the action of the State Govt. in having rejected the claim of the petitioner is arbitrary. In support of such contention counsel would refer to the documents placed on record at Annexures P-3 and P-4 to contend that similarly situated employees have been granted benefit of military service rendered during the Second National Emergency.

Such contention raised by the counsel is being noticed only to be rejected. The plea of discrimination would presuppose a right in law. Presuming certain other employees have been granted a benefit which was otherwise not admissible under the rules/executive instructions, it would not vest a right in the petitioner to claim parity. Article 14 of the Constitution of India envisages a positive concept. The plea of arbitrary action cannot be permitted to be raised and for issuance of directions by this Court to perpetuate an illegality.

As the petitioner has not been able to refer to any statutory rule/executive instructions on the strength of which the claim of the petitioner can be examined, this Court is of the considered view that there would be no warrant for interference in the impugned order dated 12.11.2014 (Annexure P-8) declining the claim of the petitioner.

Petition, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

12.07.2016.