

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 4004 of 2016

Date of Decision: 26.10.2016

MUKHTIAR 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 certiorari for quashing the order dated 13.07.2015 (*Annexure P-2*) and for 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 Air Force as Sergeant on 06.10.1971 and was discharged from Indian Air Force on 01.11.1986. Subsequently, he was granted pension by the Indian Air Force. 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 two years and six months from his discharge from the services of Indian Air Force, the petitioner joined as Sepoy with respondents No. 1 and 2-PAP Department on 07.01.1987 and ultimately retired on 31.01.2010. 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.

It being so, the order dated 13.07.2015 (*Annexure P-2*) is quashed and the respondents are directed to count the service of the petitioner rendered in the Indian Army during 2nd National Emergency for the purpose of pension. Accordingly, the respondents are directed to re-fix the pension of the petitioner. The pension 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

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No

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