

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 8826 of 2014

Date of Decision : March 11, 2016

Dalel Singh Petitioner
vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Jagbir Malik, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks counting of his military service towards pension, seniority, increments and pay fixation, which has been declined through the impugned orders dated 11.09.2008 (Annexure P-8) and 17.05.2013 (Annexure P-12).

The relevant facts, which are borne out from the record of the case and which have emerged from the arguments raised at the bar are that from 11.02.1975 to 28.02.1995, the petitioner served the Indian Army and after being discharged, he, on 13.07.1998, joined the services of the

Haryana Government as a Chowkidar in the Department of Sports and Youth Welfare, from which post, on attaining the age of superannuation, he retired. His representations for the grant of benefit of military service towards seniority, pay fixation, increments and pension, having been rejected, the present petition has been filed.

Learned counsel for the petitioner relies on the Punjab National Emergency (Concession) Rules, 1965, which ex-facie are not applicable to the facts of the case in hand as it is the admitted position that the petitioner neither joined nor served the Indian Army during the period of emergency.

When cornered with the above situation, learned counsel pressed into service Rule 4.3 of the Punjab Civil Services Rules, Volume II (hereinafter referred to as – the Rules). While admitting that there was no provision in the entire Punjab Civil Services Rules with regard to counting of military service for the purpose of seniority, increments and pay fixation, he submitted that under Rule 4.3 of the Rules, military service rendered by the petitioner has to be counted towards pension.

Rule 4.3 (a) and (b) of the Rules is reproduced as under :-

“4.3 (a) *Service rendered by an employee belonging to one of the classes mentioned in the Schedule below after attaining the age of 18 years, which is pensionable under military rules, but which terminates before a pension has been earned in respect of it, may, at the discretion of*

Government, be allowed to count, when followed by service qualifying for pension under civil rules, as part of such service. Service so allowed to count shall, however, be restricted to service, within or outside employee's unit or department, in India or elsewhere, which has been paid from Indian revenues or for which a pensionary contribution has been received by Indian revenues : Provided that any bonus or gratuity received in lieu of pension on, or since, discharge from military service shall be refunded in such number of monthly installments, not normally exceeding 36 and beginning from such date, as in each case, the Government may decide. The amount shall be refunded along with interest calculated at the rate applicable on General Provident Fund accumulation from time to time computed in the same manner (i.e. with annual compounding for the period from the date of receipt of pensionary/gratuity benefits till the date of refund to the Government : Provided further that in cases where after the issue of the orders by the competent authority on the basis of

option exercised by an employee for counting of past service for pensionary purposes, if an individual does not deposit the amount of bonus/gratuity already received by him from military authorities within one month of the receipt of communication from the Government/autonomous body, penal interest shall also be applicable for military service benefit under the Punjab National Emergency (Concession) Rules, 1965.

4.3(b) *Service pensionable under military rules which does not terminate before a pension has been earned in respect of it shall not be allowed to count for pension under civil rules without the sanction of the competent authority.”*

A perusal of the above quoted Rule clearly shows that military service rendered by an employee, who later joins Civil Services, is to be counted towards pension only in case, the concerned employee is not getting pension from the Army.

On a query posed, on instructions from the petitioner, who was present in Court, learned counsel for the petitioner admitted that for the service rendered by the petitioner in the Army, he was getting pension from the Army. That being so, under the afore-quoted Rules, the military service rendered by the petitioner in the Army cannot be allowed to be counted

towards the grant of pension from the respondent – State of Haryana.

In view of the above, finding no merit in the present petition,
the same is dismissed, with no order as to costs.

(DEEPAK SIBAL)
JUDGE

March 11, 2016
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