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

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**Civil Writ Petition No.9519 of 2014
Date of decision: May 23, 2016**

Hari Singh (Deceased) through LRs

....Petitioner

versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. Parmod Chauhan, Advocate
for the petitioner.

Mr. Shivoy Dhir, Central Govt. Counsel
for the respondents-BSF.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of order No.38017/17/Vol-III/2013-STAFF/BSF/2154-2159 dated 12.03.2014 passed in compliance of order passed by this Court in CWP No.26374 of 2013 on 02.12.2013 (Annexure P-10) vide which the claim of the petitioner for seeking pension for the period from May, 2011 to August, 2012 was rejected (*wrongly requested for pension instead of salary*). Earlier the petitioner has approached this Court by way of filing **Civil Writ Petition No.26374 of 2013** which was disposed of on 02.12.2013 directing the respondents to consider the

grievance of the petitioner and in compliance thereto, respondent No.3 rejected the request of the petitioner for grant of pension for the period from May, 2011 to August, 2012 on 12.03.2014 by stating that the petitioner is not entitled for any pensionary amount for the aforesaid period since his retiral benefits have been settled and nothing is due.

The petitioner, while in service, met with an accident on 28.02.2010 and sustained spinal injury and was bed-ridden. The respondents were insisting the petitioner to take treatment in Border Security Force Hospitals at Jalandhar or Delhi but the petitioner refused to take treatment in the aforesaid hospital apparently for the reasons that he was unable to move due to sever injury in the spinal. The respondents arranged for medical Board on 09.12.2011 and 22.06.2012. Board has opined that petitioner is suffering from 100% disability. In this background, the respondents have taken their own time to come to the conclusion that whether the petitioner is to be continued in service or not, only on 03.09.2012 and on that date, he has been held to be invalid for service.

In view of the above facts and circumstances, whether the petitioner is entitled for monetary benefits (salary/pay) during the period from May, 2011 to August, 2012 or not? The petitioner and the respondents are all along of the view that the subject matter is relating to grant of pension for the period from May, 2011 to August, 2012 whereas it is evident from the record that the petitioner has been invalidated from service w.e.f. 03.09.2012, therefore, inference can be drawn that the petitioner was in service till 03.09.2012 for the

purpose of service benefits. On the other hand, the petitioner as well as the respondents wrongly took that the issue is pension instead of salary/pay attached to the post for the aforesaid period. Moreover, by using a wrong word in the representation, the claim of the petitioner for grant of pension (salary/pay) for the period from May, 2011 to August, 2012, the respondents should not have rejected claim on the ground that the petitioner is not entitled for pension for the aforesaid period. Question of pension for the aforesaid period may not arise since he was very much in service till 03.09.2012 and the order was passed to invalidate the petitioner for the purpose of service.

It is learnt that the petitioner, namely, Hari Singh died during pendency of the litigation, therefore, his legal representatives are entitled for the above relief.

In view of these facts and circumstances, Annexure P-10 is set aside and the respondents are directed to treat the period from May, 2011 to 03.09.2012 on duty for all service benefits reason being that there is no delay or lapse on the part of the petitioner and difference of salary for the period from May, 2011 to 03.09.2012 shall be calculated and paid within a period of three months from today. The respondents are also directed to pay an amount of ₹ 5000/- as cost of this petition.

The present civil writ petition is allowed.

May 23, 2016

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**(P.B. BAJANTHRI)
JUDGE**