

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

**RSA No.5297 of 2015
Date of Decision: 25.01.2016**

Om Parkash

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE SABINA

Present: Mr. Rakesh Nagpal, Advocate,
for the appellant.

SABINA J.

Appellant had filed suit for declaration that he was entitled to receive pension.

The case of the appellant, in brief, was that he had joined Indian Army on 23.07.1991 and was discharged on 31.07.1997. Thereafter, appellant joined the service of the defendants on 08.06.2001 as Veterinary Live Stock Assistant and retired on 28.02.2011 on attaining the age of superannuation. Appellant was released his retiral dues but was not granted pension on the ground that he had rendered less than ten years of service with the defendants.

Defendants in their written statement averred that the appellant was not entitled to receive pension as he has not completed ten years qualifying service as per Rule 6.16 (2) of Civil Service Rules Volume II. Appellant was already drawing pension qua the military service rendered by him.

On the pleading of the parties following issues were framed

by the trial Court:-

- “1. Whether the plaintiff is entitled for relief of declaration on the grounds mentioned in the plaint, as prayed for? OPP.*
- 2. Whether plaintiff is entitled for relief of mandatory injunction as prayed for? OPP.*
- 3. Whether the suit of plaintiff is not maintainable? OPD.*
- 4. Whether plaintiff has got no cause of action and locus standi to file the present suit? OPD.*
- 5. Whether plaintiff has not come to court with clean hands and has suppressed the true and material facts from the Court? OPD.*
- 6. Relief.”*

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment and decree dated 23.08.2013 dismissed the suit of the plaintiff. The said judgment/decree were upheld by the First Appellate Court in appeal vide judgment and decree dated 27.04.2015. Hence, the present appeal by the appellant-plaintiff.

I have heard learned counsel for the appellant and gone through the record available on the file carefully.

Rule 6.16 (2) of Civil Service Rules Volumn II reads as under:

6.16(2) *In the case of a Govt. employee retiring on or after the 1st April, 1979, in accordance with the provisions of these rules after completing qualifying service of not less than thirty three years or more, the amount of superannuation, retiring, invalid and compassionate pensions shall be 50% of average emoluments as defined in rule 6.19 C of these rules subject to a maximum of*

[Rs.3,800] per mensem. However, in the case of a Government employee who at the time of retirement has rendered qualifying service of ten years or more but less than thirty-three years, the amount of pension shall be such proportion of the maximum admissible pension as the qualifying service rendered by him bears to the maximum qualifying service of thirty-three years, subject to a minimum of [Rs.375] per mensem (A few illustrations are given in Annexure to this Chapter).]

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Admittedly, in the present case, appellant had not completed ten years of service. Appellant had served with the defendants for nine years, eight months and twenty three days. Although, the period of ten years was short by only seven days but the fact is that the appellant had not completed ten years of service entitling him to receive the benefit of pension as per rules. In these circumstances, the Courts below had rightly ordered the dismissal of the suit of the appellant.

No substantial question of law arises in this case warranting interference by this Court.

Dismissed.

25.01.2016
Bhumika

(SABINA)
JUDGE