

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

**CWP No.11535 of 2013 (O&M)
Date of decision : April 28, 2017**

Ramesh Pal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Petitioner in person along with
Mr. Sunny Singla, Advocate.

Mr. Anshul Gupta, AAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The present petition is for issuance of writ of mandamus for directing the respondents to count the military service of the petitioner for the purpose of pensionary benefits. The petitioner has retired as S.S. Master from the Government Sr. Secondary School, Narot Jaimal Singh, District Gurdaspur on 30.04.2004. He had served served in the Indian Navy from 07.09.1962 to 07.03.1974. During this period, the first and second national emergency remained in operation from 26.10.1962 to 09.01.1968 and from 03.11.1971 to 26.03.1977, respectively.

It comes out that while the petitioner was in service, he filed CWP No.1574 of 1996 (Annexure P-1) for counting his military service for the purpose of grant of seniority, increments and pensionary benefits, in terms of the Govt. Notification dated 20.07.1965.

In the written statement filed in the said petition, it is stated that the petitioner has since been granted the due benefits of military service in

respect of counting the period of military service for the purpose of increments, seniority and pensionary benefits. However, since the petitioner was in service, the pensionary benefits would be given at the time of his retirement. Consequently, the said petition was dismissed of as infructuous vide order dated 29.08.1996 (Annexure P-2).

From the short affidavit dated 31.10.2014 respondents, it comes out that respondent No.3 was asked by DPI(SE), Punjab vide letter dated 22.11.2013 (Annexure R-1) granted due pensionary benefits within three months.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The petitioner retired from service on 30.04.2004. At the time of the retirement or before the retirement of the petitioner, the respondents were required to intimate the petitioner that he is required to deposit the amount of DCRG and gratuity along with interest received from the military authorities. However, no such letter is shown to have been issued during the service of the petitioner or at the time of his retirement. The first letter was written on 22.11.2013 (Annexure R-1) i.e. after nine years of the retirement of the petitioner.

It being so, though the petitioner is required to deposit back the amount received from the military authorities on account of DCRG and gratuity but no interest is payable till 22.11.2013 when the letter was issued to deposit the said amount.

As such, the present petition is disposed of with a direction to the respondents to count the military service of the petitioner, in terms of

their undertaking in the written statement filed in CWP No.1574 of 1996.

The amount of DCRG and gratuity shall be deducted from the arrears payable to the petitioner. However, no interest shall be payable till 22.11.2013 i.e.when the petitioner was asked to deposit the said amount.

The interest for the period thereafter will also be deducted from the arrears payable to the petitioner. The necessary order be passed and the balance arrears be released within two months from the date of receipt of certified copy of this order. However, the said balance arrears shall be released with interest @ 9% per annum starting three months from the date of the retirement of the petitioner.

(KULDIP SINGH)
JUDGE

April 28, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No