

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.3057 of 2017.

Date of Decision: May 24, 2017

Deepak Kumar Singh

.....Petitioner

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr.Rohiteshwar Singh, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The petitioner assails the orders dated 05.08.2014 and 22.3.2016 passed by the Central Administrative Tribunal, Chandigarh Bench. Vide the first order, his Original Application challenging the order of termination of his services, was dismissed and vide the second order, the Review Application filed by him pursuant to the liberty granted by this Court has also been declined by the Tribunal.

[2] The question which arose for consideration before the Tribunal was whether the petitioner falls within the definition of ex-serviceman? If not, whether order of termination of his services could be interfered with?

[3] The facts are not in dispute. The petitioner joined the Indian Army as a Sepoy on 14.10.1995. He sought voluntary retirement which was accepted and he was discharged from Indian Army on 31.05.2007 after rendering 11 years 7 months and 17 days' service. While issuing the Discharge Certificate, the Army Authorities have described that the petitioner is "Non-ex-serviceman".

[4] After his discharge from the Army, the petitioner applied for the post of Civilian Majdoor advertised by the Commanding Officer-

petitioner was eventually selected and given appointment vide letter dated 01.12.2012. Soon thereafter, respondent No.4 detected that the petitioner was erroneously appointed as he is not an ex-serviceman. Consequently, the petitioner was issued show-cause notice on 15.01.2013 and after considering his reply, his services were dispensed with vide order dated 19.01.2013. He unsuccessfully challenged the above-stated order before the Tribunal.

[5] It is not in dispute that the petitioner was not declared 'ex-serviceman' by the Army Authorities, who alone are the Competent Authority to declare so. It is also an admitted fact that the petitioner applied and competed for a post reserved for ex-serviceman category. It is conceded before us that minimum 15 years' service in Army was required to be rendered to get the status of 'ex-serviceman' which the petitioner indisputably did not render. That being the state of affairs, no fault can be found with the action taken by the authorities in dispensing with the services of the petitioner.

[6] Faced with this, learned counsel for the petitioner relies upon a decision of this Court in **Manjit Singh Kahlon, Headmaster versus State of Punjab and others, 2003 (5) SLR 383**, to contend that in the cited case, the petitioner who had rendered a little more than 12 years Army service, was treated as 'ex-serviceman'. We, however, do not find any merit in the contention, for in para No.5 of the report, it is categorically mentioned that *“it is relevant to note here that in the certificate issued by the ministry of defence, the appellant has been described as an ex-serviceman..”* In the cited case, the appellant thus was declared as ex-serviceman by the Army Authorities. The petitioner, on the other hand, has been described as a non-

ex-serviceman. In this view of the matter, no ground to interfere with the orders passed by the Tribunal is made out.

Dismissed.

[SURYA KANT]
JUDGE

May 24, 2017
mohinder

[HARI PAL VERMA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No