

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

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**LPA No.2047 of 2016 (O&M)**

**Date of Decision: 01.03.2017**

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Rameshwar

... Appellant

VS.

State of Haryana & Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT**

**HON'BLE MR.JUSTICE SUDIP AHLUWALIA**

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Present: Mr. Munish Jolly, Advocate for the appellant

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**SURYA KANT, J. (Oral)**

(1) Notice of motion. On our asking, Mr. Deepak Balyan, Addl. AG Haryana accepts notice. Let two copies of the paper-book be handed over to learned State counsel during the course of day. No reply is required to be filed by the respondents in view of the nature of order proposed to be passed.

(2) Heard learned counsel for the parties.

(3) This Letters Patent Appeal assails the order dated 16.08.2016 whereby learned Single Judge has dismissed the appellant's writ petition in which he sought a direction to grant him pension w.e.f. 01.02.2002 with all consequential benefits.

(4) Since the appellant has now taken an altogether new plea before us, firstly a brief reference to the facts may be made.

(5) The appellant joined the Indian Army as Sepoy on 04.01.1963. He rendered 26 years of service and retired as Naib Subedar on 31.01.1989. He is admittedly getting Military pension in lieu of the above-stated service.

(6) The appellant was later on given civilian employment and was appointed as Welfare Organizer in Zila Sainik Board, Bhiwani and he joined

after attaining the age of superannuation. In this manner he rendered civilian service for six years and one month.

(7) The appellant wanted both his services to be clubbed for the purpose of 'pension' for civil employment. That claim has been turned down by the learned Single Judge.

(8) Such a claim of the appellant has to be rejected keeping in view the scheme of Rules as construed by a Co-ordinate Bench of this Court in **LPA No.694 of 2009 (State of Haryana & Anr. vs. Mohinder Singh & Anr.)** decided on 17.09.2009. In that case also, the incumbent had been granted Military pension and his claim for civil pension, as a re-employed military pensioner, was turned down by this Court.

(9) Faced with this, learned counsel for the petitioner submits that he is ready and willing to forego and surrender the Military pension provided that he is granted civil pension after clubbing the 'Military service' with the 'civilian service' rendered by him.

(10) We have gone through the written statement and other documents on record to trace out the stand of the respondents in this regard. There is nothing on record to suggest that any conscious decision was ever taken by the authorities as to whether or not the appellant can be granted one civilian pension after clubbing the Military service with civilian service rendered by him.

(11) We thus without expressing any views on merits of such claim in the absence of pleadings and the relevant rules/instructions on record, set aside the order passed by learned Single Judge and dispose of the appeal as well as the writ petition filed by the appellant with a direction to the State of Haryana through the Defence Services Welfare Department to examine the

above-stated claim of the appellant and determine whether the appellant can be granted one civilian pension after clubbing his Military as well as civilian services subject to his surrendering the Military pension on such terms and conditions as may be imposed in accordance with the State Government Rules/policy.

(12) Let an appropriate decision be taken within a period of three months from the date of receipt of certified copy of this order.

**(Surya Kant)**  
**Judge**

**01.03.2017**  
*vishal shonkar*

**(Sudip Ahluwalia)**  
**Judge**

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

**Yes**  
**No**