

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

C.R.No.6434 of 2016 (O&M)

Date of Decision: May 02, 2018

Tarlok Singh

...Petitioner

Versus

Punjab State & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.S.K.Bawaja, Advocate,
for the petitioner.

Ms.Devaki Anand Sullar, AAG, Punjab,
for the State.

AMIT RAWAL, J. (Oral)

The present revision is directed against the order dated 2.11.2013 (Annexure P-6), whereby the execution application submitted by the petitioner-decree holder claiming implementation of the judgment and decree dated 26.3.1992 which has attained finality, has been dismissed.

Mr.S.K.Bawa, learned counsel for the petitioner-decree holder submitted that the petitioner was in the Army service and worked during the period of emergency and thereafter took voluntary retirement. He also served as Social Studies Teacher with the Government of Punjab. Since he was not given the benefit of service rendered during Army, was compelled to file the suit, which was decreed on 26.3.1992. The appeal preferred by the State was dismissed and the Regular Second Appeal also met with the same fate.

He further submitted that petitioner moved an execution application, but the respondents made every effort to delay the same and

hence the present revision.

The trial Court, vide order dated 2.11.2013, disposed of the execution fully satisfied without adjudication on merits and without any costs. The impugned order is not sustainable on the premise that the Executing Court has not relied upon the calculations of the entire benefit, which have been submitted by the petitioner during the course of the hearing. No valid reasons have been assigned as to how the decree passed by the trial Court stood satisfied. The petitioner has been deprived from actual benefits for which he was entitled to. The finding of the Executing Court that the petitioner is not entitled to the benefits is not correct, for, the benefit of military service was extended to the petitioner from all corners, which included seniority, increment etc. and, thus, urged this Court for setting-aside the findings under challenge.

Ms.Devaki Anand Sullar, learned Assistant Advocate General, Punjab submitted that all the benefits of military service had already been granted to the petitioner. The petitioner is also drawing military pension from the defence and in view of the rules noticed by the Executing Court, he was not entitled to claim the pensionary benefits from the State Government and, thus, urged this Court for dismissal of the revision.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr.S.K.Bawa, learned counsel for the petitioner.

Concededly, the petitioner is claiming the pensionary benefits of his military service, i.e., service rendered by him in the military. The other benefits, as noticed by the trial Court and as well as the State Counsel, had already been paid.

Rule [4] clause (iii) sub clause (i) provides that the period of military service mentioned in clause (i) would be counted towards pension only in the case of appointments to permanent service or posts under the Government if the person is not earning a pension under military rules. The aforementioned factum of drawing the pension from the military service had not been denied and controverted.

Mr.Bawa submitted that the calculations given by the petitioner for granting the benefit had not been considered. In case the grievance of the petitioner is not redressed, he is at liberty to give the calculations to the department and the department, after noticing the deficiency, would give detailed reply to the petitioner. In case of any deficiency, the petitioner shall be at liberty to revive the execution application.

Revision petition stands disposed of.

May 02, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No