

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

**RSA No.1626 of 1993
Date of decision:25.07.2018**

Baldev Raj

... Appellant

Vs.

Punjab Water Supply and Sewerage Board, Chandigarh and another
... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- None.

AMIT RAWAL J. (Oral)

The present appeal is arising out of decision of the civil suit for declaration with consequential relief of permanent injunction which has been dismissed by the trial Court, vide judgment and decree dated 16.10.1992 and affirmed by the Lower Appellate Court, vide judgment and decree dated 11.06.1993.

The facts which emanates from the pleadings of the parties are that the plaintiff joined the services of Punjab Water Supply and Sewerage Board, Chandigarh as Truck Driver on 12.10.1978. He was posted in the office of Sub Divisional Engineer, Punjab Water Supply and Sewerage Board, Sub Division No.1, Ferozepur. Before joining the services, he was employed in the Indian Army and performed the military services for more than 12 years and 8 months. It has been alleged that pay of the petitioner was fixed by the defendants after taking into consideration the benefits of

military services. However, the defendants realizing the fact that plaintiff was not entitled to the benefits of said military services and as such issued the order dated 29.10.1990 for recovery of ₹16326.80 paise.

The suit was contested by the defendants stating therein that appellant-plaintiff was not entitled to the relief as vide letter dated 15.3.1977 of Executive Engineer, Division Ferozepur, was appointed as Regular Chowkidar in the pay scale of ₹70-95 and thereafter, was posted as Peon and then as Truck Driver in the pay scale of ₹110-180.

The trial Court on the basis of pleading of the parties framed the following issues:-

- “1. Whether the impugned order dated 29.10.1990 passed by defendant No.2 is illegal and is liable to be set aside?OPP*
- 2. Relief.”*

On the basis of evidence brought on record, the trial Court dismissed the suit by holding that plaintiff had already availed the benefits of military services at the time of his first appointment as Chowkidar, therefore, said benefit could not be extended when posted as Truck Driver. The appeal laid before the Lower Appellate Court also met with the same fate.

As per the grounds taken in the memorandum of appeal, it has been alleged that there is no bar for claiming the benefit of military services more than once. The appellant was allowed the benefits of military services by the department but later on vide memo dated 29.10.1990, the same was

withdrawn without issuing any charge sheet or notice. The Lower Appellate Court had not referred to the grounds taken in the grounds of appeal, therefore, there is abdication.

I have gone through the judgments and decrees as well as record of the Courts below and of the view that there is hardly any substance in the appeal, for, benefit which has been availed by the appellant-plaintiff at the time of appointment of Chowkidar cannot be extended twice. It is double benefit which cannot be availed of. The findings of facts and law arrived at by both the Courts below do not call for any interference enabling this Court to form the different opinion than the one arrived at, much less no substantial question of law arises for adjudication of the present appeal.

The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

July 25, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No