

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

**CWP No. 26640 of 2015 (O&M)
Date of Decision: 26.02.2018**

Chhinder Singh

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Dinesh Sharma, Advocate
for the petitioner.

Mrs. Lavanya Paul, Assistant Advocate General, Punjab
for the respondents/State.

JASWANT SINGH, J. (ORAL)

Petitioner (Chhinder Singh) is stated to have enrolled as *Sipai* in the Indian Army on 02.12.1965 and was discharged on 31.12.1980. He was appointed as a Driver under the Director of State Transport, Punjab on 08.03.1984 and is stated to have retired on medical grounds due to extreme poor eye-sight on 15.12.2004. The petitioner was extended the benefit of military service for the period he served during First National Emergency (i.e. 26.10.1962 to 09.01.1968). The petitioner, thus, was given the benefit for two (02) years, one (01) month and seven (07) days of military service with effect from for the period 1965 to 1968 and, accordingly, an order dated 19.07.2013 (**Annexure P-11**) was passed, whereby after grant of admissible increments, his pay was re-fixed and accordingly his pension also was re-fixed.

The petitioner, by filing the present petition, is seeking the release of arrears of re-fixed pay and also arrears of revised pensionary benefits w.e.f 15.12.2004.

Upon notice, a reply has been filed. A preliminary objection with regard to a delay of ten (10) years from the date of retirement has been taken.

The petitioner after a delay of more than two years has, now, filed a civil miscellaneous application bearing **CM No. 2793 of 2018** under Order 6 Rule 17 CPC seeking amendment of the writ petition, so as to claim the benefit of military service rendered for the Second National Emergency period w.e.f. 03.12.1971 to 25.03.1977.

Learned counsel for the parties heard at length.

Keeping in view the aforesaid facts and circumstances, it is held that the petitioner would be entitled the benefit of arrears of revised pension for a period of thirty-eight (38) months prior to the date of filing of the present writ petition. However, as far as the amendment to seek the benefit of the Second National Emergency, this Court is of the view that on severance of the relationship of a master and servant w.e.f. 15.12.2004, the limitation for claiming any benefit *qua* increments during the service period, the recurring cause of action would freeze with effect from the date of retirement. Concededly, the claim for grant of benefit of Second National Emergency period has, only, been made now after a delay of almost 13 years and, therefore, would be barred by limitation.

In view of the above, present petition is **partly allowed** in the above terms.

Since the main petition has been decided, therefore, no orders are required to be passed in the pending miscellaneous application(s), if any.

February 26, 2018

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**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>