

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

CWP No. 5578 of 2015

Date of Decision: 15.03.2018

Haneef Khan

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ravi Verma, Advocate for the petitioner.
Ms. Shruti Jain Goyal, AAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. The impugned order rejects the claim for counting the service spent in the Air Force with civil service for entitlement to pension on the basis of Punjab Government National Emergency Concession Rules, 1965. There is no discussion in the impugned order regarding Rule 4.3(a) of the Punjab Service Rules Volume-II as applicable to Haryana.

2. The petitioner had served in the Indian Air force from 06.06.1986 to 07.05.1996 and according to the papers on file placed with the written statement, he left the Air Force “at his own request before fulfilling the conditions of enrollment” as per Certificate of Transfer to the Regular Air Force Reserve. The expression used in the Indian Air Force “Trade Proficiency Certificate” issued to the petitioner photocopy of which has been produced by Mr. Verma though not on record, contains the following words in paragraph 2(a) “he was enrolled on 06.06.86 and discharged on 08.5.96 from the IAF at his own request before completion of initial engagement.”

3. If an order contains dispute, irrelevant reasons or introduces a concept foreign to the determination of the subject matter then the order must fall and make way for passing of a fresh order on remand in accordance with law. Since the impugned order suffers from a patent infirmity in reasoning, the same cannot survive or be allowed to stand.

4. Accordingly, this petition is partly allowed. The impugned order dated 04.12.2014 (Annex. P-11) is set aside is illegal and arbitrary. Respondents are directed to pass a fresh order in accordance with law. The competent authority would look to the judgments relied upon by the petitioner, which are annexed at Annex. P-2 and P-6. The petitioner will be heard by the competent authority on his original legal notice and the fresh order be passed within a period of two months from the date of receiving of certified copy of the order and the same be communicated to the petitioner forthwith.

(RAJIV NARAIN RAINA)
JUDGE

15.03.2018
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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*