

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

CWP No. 5844 of 2015 (O&M)

Date of decision: 14.08.2018

Lt. Col. P.S. Bajwa

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Raman Sharma, Advocate for the petitioner(s).

Ms. Kanica Sachdeva, AAG, Punjab.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, the petitioner seeks quashing of action of respondent No.2 whereby the benefit of letter dated 26.05.2014 (Annexure P-1/A) granting benefit of initial fixation of basic pay at the same stage as the last basic drawn at the time of retirement of Group A post in the rank of Commissioned Officer, has been restricted and the arrears thereof has not been paid.

It is asserted that the petitioner is Ex-serviceman and his status as Ex-serviceman after reemployment is at par with officers of Short Service Commission. There is no plausible explanation for restricting the relief only to the officers of the Short Service Commission and denial of the same to the remaining categories of the Ex-serviceman.

On the other hand, learned State counsel states that the Ex-servicemen who retired from defence services as short service

commissioned officers and those who retired from higher posts in the defence services cannot be treated at par as their services are regulated by different set of norms.

Heard.

Hon'ble the Supreme Court in case of **P. Parameswaran and others** Vs. **Secretary to the Government of India**, 1988(1) SLR 5 has observed as under:-

“The petitioners who were Field Publicity Officers, Grade IV were upgraded to Grade III pursuant to the recommendations of the Third Pay Commission. The scale of salary was also revised but effect was given to the revision from October 1, 1975 instead of from January 1, 1973 as in the case of all other persons. It has been pointed out in the writ petition that in the case of Field Publicity Officers (Border) effect was given to the revised grade and scales from January 1, 1973. These facts are admitted in the counter affidavit filed on behalf of the government but it is stated that the petitioners could not be given the revised scales with effect from January 1, 1973 on account of some administrative difficulties. We do not think that it is open to the government to deny the benefit of the revised grade and scale with effect from January 1, 1973 as in the case of all other persons merely because of some administrative difficulties. To do so will be discriminatory. A direction will, therefore, issue to the respondents to give effect to the revised grade and scales from January 1, 1973 to the petitioners.

Writ petition is disposed of accordingly.”

Once the claim of the petitioner has been admitted, it cannot be restricted in law by a whimsical approach of the administration. The petitioner joined the service of the respondents on 08.11.2009; the benefit of re-fixation has already been granted to the petitioner, therefore, the

relief cannot be denied to him on erecting a superficial date which runs contrary to the observations of Hon'ble the apex Court. The petitioner is entitled to the benefits of military service rendered by him w.e.f. 01.01.2006 i.e. the date of adoption of the recommendation of Sixth Pay Commission.

Keeping in view the above, the present petition is allowed. Accordingly, the condition (d) of impugned letter 26.05.2014 (Annexure P-1/A) is set aside. The respondents are directed to release the arrears and consequential relief along with interest @ 6.5% per annum in favour of the petitioner within a period of three months from the date of receipt of certified copy of the order.

14.08.2018
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No