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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6407-2016

Date of Decision : Sept. 18, 2018

Sartaj Singh

.... Petitioner.

Versus

The Union of India and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Ajay Pal Singh, Advocate
for the petitioner.

Mr. Sunil Kumar Sharma, Advocate,
for respondents – UOI

Ms. Bhavna Gupta, DAG, Punjab.

SHEKHER DHAWAN, J.

Sartaj Singh, petitioner herein, who is son of late Sepoy Kulwant Singh filed the present writ petition under Articles 226/227 of the Constitution of India for quashing the impugned order dated 16.12.2015 (Annexure P/8) passed by respondent No. 3 whereby claim of the petitioner being son of late Sepoy Kulwant Singh was rejected and relationship certificate issued earlier was cancelled.

2. Facts relevant for the purpose of decision of this writ petition; that father of the petitioner, late Sepoy Kulwant Singh (No. 10197800) was enrolled in the Army on 14.8.1985 and on his request he was discharged

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from service on 27.1.1996. Unfortunately, he died on 02.02.1996. The verification certificate was issued on 30.11.2015 (Annexure P/1). The wife of the deceased had written for release of pension treating her as widow of ex-serviceman, Sepoy Kulwant Singh. The respondents had issued Relationship Certificate (Annexure P/3). The petitioner herein was interested for recruitment in the Army and for that purpose having passed his Matriculation examination in the year 2011, appeared in the tests held on 27.7.2014 and 1.2.2015, but could not qualify the same. He, however, cleared the test on 30.08.2015.

3. The main grievance of the petitioner in the present writ petition is that the Relationship Certificate (Annexure P/3), which was issued as son of late Sepoy Kulwant Singh, was cancelled vide order dated 16.12.2015 (Annexure P/8) and subsequent letter dated 5.3.2016 (Annexure P/11) without any basis.

4. On notice, the respondents have come with the plea that late Kulwant Singh was not covered under the definition of "ex-serviceman" as he was discharged from service on his own request. Though, the Relationship Certificate, Annexure P/3 was issued earlier, but on re-verification of the record, it was found that the same was incorrect as late Kulwant Singh was discharged from service on his request only and he has not earned the pension. As such, the Relationship Certificate was rightly cancelled vide Annexure P/8 and the petitioner does not have any legal right to file the present writ petition.

5. Having considered the submissions made by learned counsel

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for the parties and appraisal of the record, this Court is of the considered view that most of the facts are not disputed in this case regarding period of employment and discharge of late Kulwant Singh from service on 27.1.1996. It is also not disputed that late Kulwant Singh was discharged at his own request. As per relevant notifications dated 14.4.1987, issued by Department of Personnel and Training (DOP&T), Kulwant Singh is not covered under the definition of "Ex-serviceman" as he was discharged from service on his request. The relevant provisions from the notifications dated 14.04.1987 issued by DOP&T are extracted below :-

"Those who were released on or after 01 Jul 87 - Any person who has served in any rank (whether as combatant or not) in the armed forces of the Union and was released/retired with any kind of pension from Defence Budget or released on completion of specific terms of engagement with gratuity **otherwise than at his own request** or by way of dismissal or discharge on account of misconduct or inefficiency.

(Authority : DOP&T OM No. 36034/5/85-Estt (SCT) dated 14 Apr. 87).

Pension of Territorial Army - Who are pension holders for continuous embodied service, persons with disability attributable to Military service and gallantry award winners retired on or after 15 Nov. 86.

(Authority : DOP&T OM No. 36034/5/85-Estt (SCT) dated 14 Apr. 87).

6. It is also not disputed in any way that Kulwant Singh had not drawn pension at any time nor the same was drawn by the petitioner or any of the family members after his death. Merely taking the plea that

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Relationship Certificate, Annexure P/3, was issued, though the respondents have come with a specific plea that the same was issued inadvertently and the error had come to the notice during re-verification of the same that late Sepoy Kulwant Singh does not fall in the category of “ex-serviceman” and respondents were well within their rights to cancel the Relationship Certificate (Annexure P/3). As such, the petitioner is not entitled to avail benefit of physical relaxation and bonus marks for enrollment in the Army against unit HQs quota on the basis of such a relationship certificate which has been issued just because of inadvertence and same has already been withdrawn.

7. In view of the above, the present writ petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

September 18, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes