

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

**CWP-16605-2014
Date of decision : 20.03.2019**

Inderjit Singh Bumbra

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Jaspal Singh Guru, Advocate for
Mr. Rahul Sharma, Advocate for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

JITENDRA CHAUHAN J. (ORAL)

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ of Certiorari quashing impugned order dated 19.05.2014 (Annexure P-6), whereby, the petitioner's prayer to count the military service rendered by him in the civil service for pensionary benefits.

It is contended that the petitioner was commissioned in the Indian Army on 17.03.1979 as a Short Service Commissioned Officer. After completion of 6 years, 6 months and 23 days of service as a short service commissioned officer in the Army. He was released from service with effect from 11.10.1985. After his release from the Army, the petitioner was appointed as Excise and Taxation Officer against the post reserved for ex

servicemen, but the benefit under Rule 8-C of the Punjab Recruitment of Ex-servicemen Rules (for short, 'Rule 8-C') was not granted to him on the ground that his case is not covered under Rule 4.6-A of the Punjab Civil Services Rules, Volume II (for short, 'Rule 4.6-A').

It is contended that Rule 4.6-A pertains to War Service and not the military service rendered by the petitioner as a Short Service Commissioned Officer in the Indian Army. Even otherwise, Rule 8-C being a special Rule would over-ride Rule 4.6-A which is a general rule.

On the other hand, learned State counsel submits that the petitioner's case for grant of benefit claimed in the instant petition was rejected as the break period between discharge from Army till the date of joining Civil Services being more than 9 years. Furthermore, Rule 4.6-A pertains both to the military service as well as the war service.

Heard.

The petitioner has laid claim to the benefit in question by referring to the provisions of Rule 8-C, which read thus:-

*“(i) **Increments and pension** – Short Service Commissioned Officers who joined Government service shall be granted advance increments equal to the number of completed years of service rendered by them in Armed Forces on basic pay at the time of entry into Government service. They shall also be entitled to counting military service rendered by them in armed forces for the purpose of Pension in Government Civil Service. The period, if any, between the date of release from military service*

and the date of appointment to civil service or post under the Government shall also count towards pension.”

A plain reading of the above provision makes it amply clear that all Short Service Commissioned Officers who join government service shall be entitled to advance increments equal to the number of completed years of service rendered by them. They shall also be entitled to the benefit of past military service towards pensionary benefits. It is a general principle of law that '*Generalia Specialibus Non Derogant*', which means where a special rule is provided on a particular subject, the same shall have the overriding effect on the general rule, if any, on the same subject. Thus, the respondent-authorities fell in error while denying the benefit claimed by the petitioner on the strength of Rule 4.6-A which is a general rule. It is also to be noticed that the petitioner has already been granted six increments due to him vide order Annexure P-4. Therefore, the denial of benefit of military service towards pensionary benefits in government service is unjustified.

At this stage, learned counsel for the petitioner states that he does not press for the benefit qua gap period between 11.10.1985 to 11.05.1995.

In view of the above, the instant petition is allowed; impugned order dated 19.05.2014 (Annexure P-6) is hereby quashed; and the respondents are directed to re-fix the pension of the petitioner after counting military service from 07.03.1979 to 10.10.1985. The necessary exercise be

completed within a period of six weeks from the date of receipt of a certified copy of this judgment. The arrears of revised pension be paid to the petitioner within six weeks thereafter.

20.03.2019
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(JITENDRA CHAUHAN)
JUDGE

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