

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CWP-10805-2020

Date of decision: 25.09.2020

Jarnail Singh

....Petitioner

versus

Punjab State Power Corporation Ltd. and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Virinder Kumar Shukla, Advocate for the petitioner.

Mr. Aarav Gupta, Advocate for the respondents.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Jarnail Singh, stated to be aged 72 years, has filed the present petition *inter alia* with a prayer for issuance of direction for quashing the impugned memo dated 13.11.2019 (Annexure P-7) declining the claim of the petitioner for counting his military service rendered during 2nd National Emergency period from 03.12.1971 to 25.03.1977 towards pension of his civil post of Bill Distributor in the respondent-Corporation without having regard to the judgment dated 13.11.2014 (Annexure P-5), passed by this Court in CWP-17661-2013.

Records of the case show that on 29.07.2020, notice of motion was issued.

Today, Mr. Aarav Gupta, Advocate, appears on behalf of the respondents.

With the able assistance of counsel for the parties, this Court has perused the petition.

Learned counsel for the petitioner, by making reference to Paras 3 & 5 of the petition, submits that as per Ex-servicemen Rules 1982 (which were amended in 2012 vide notification dated 10.04.2012), it was stipulated that all the Army Personnel, who either joined during National Emergency period or not, will be entitled to the benefit of Military Service towards increments and pension. He further submits that however the applicability of the same was made only on those, who were appointed in government service prior to 01.12.2011. Counsel then refers to the judgment dated 13.11.2014 (Annexure P-5), passed by the Division Bench of this Court in **CWP-17661-2013**. In this judgment, it has been mentioned that as far as pension is concerned, there is no stipulation in the 2009 Rules that the benefit of military service during the Second National Emergency towards pension would be given only to those incumbents who joined the military service during the Second National Emergency period. Accordingly, all the petitioners (therein) were held entitled to grant of military service benefit towards pension. Learned counsel further submits that this judgment has attained finality. He then submits that for the same/similar grievance, the petitioner had submitted a representation dated 07.03.2018 (Annexure P-4) to the XEN, Punjab State Power Corporation Ltd., Sangrur and had appended the above said judgment along with the same. He further submits

that respondents through Under Secretary/Establishment (for Chief Engineer/Op South, PSPCL, Patiala), had written to the Superintending Engineer, DS Circle, Sangrur, that the employee namely the petitioner, had retired from the service of Board on 29.02.2008. The grievance therefore of counsel for the petitioner is that the Competent Authority while issuing this letter dated 13.11.2019, has not taken into consideration the judgment of the Division Bench of this Court.

In view of the peculiar facts and circumstances submitted above, the present writ petition is disposed of with a direction to the respondents to examine the prayer of the petitioner afresh i.e. for grant of benefit of military service towards pension, by taking into consideration the judgment dated 13.11.2014, passed by the Division Bench of this Court in CWP-17661-2013. The Competent Authority is directed to consider and decide afresh, *de hors*, the earlier decision dated 13.11.2019.

Let the needful be done within three months from the date of receipt of copy of this order. In case, the petitioner is found entitled, the consequential benefits be released to him within two months therefrom.

A copy of this order be sent to the Competent Authority, by the Registry through e-mail or any other mode, so as to enable the said authority to do the needful expeditiously.

Civil Writ Petition is disposed of accordingly.

(GIRISH AGNIHOTRI)
JUDGE

25.09.2020/anju rani

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No