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

CWP NO. 5530 OF 1999

DATE OF DECISION : 05.07.2022

Ram Kumar

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM+ : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R. S. Sangwan, Advocate
For the petitioner.

Mr. R. D. Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of mandamus directing the respondents to grant benefit as per Government of India instructions dated 11.04.1964 (Annexure P-1) read with instructions issued by the State Government dated 27.08.1998 (Annexure P-3), and grant him increment benefits equal to the service rendered in the Armed Forces as Combatant Clerk.

2. The ostensible reason of denial of benefit of additional increment to the petitioner herein is that though he served the Indian Army but since his designation was that of a store-keeper and therefore, he is not entitled to benefit of Government of India instructions dated 11.04.1964 (Annexure P-1) read with instructions issued by the State Government dated 27.08.1998 (Annexure P-3).

3. In the premise, before adverting on the merits of the claim of the petitioner, relevant of the said instructions is required to be seen. For ready reference, relevant is extracted herein below :

“Government of India Instructions dated 11.04.1964

It has been decided as a special case, the service rendered as a Combatant Clerk (Sepoy and above and all equivalent ranks in Navy and Air Force), may be treated as equivalent to service as LDC/Junior Clerks in Civil departments irrespective of the pay drawing the Armed Forces and that when such persons are absorbed in posts in LDCs/Junior Clerks in Civil departments after their release/retirement from the armed forces, their initial pay in the posts of LDCs/junior Clerks may be fixed at a higher stage in the scale above the minimum equal to the member of completed years of service as Combatant Clerk.”

State Government Instructions dated 27.08.1998

“ I am directed to invite your attention to Haryana Government endorsement No.2480-2GSII/10755, dated 20th May, 1974 with which copy of Govt. of India’s letter No. F6 (8)-E-III/63, dated 11th April, 1963 was circulated to all heads of Departments etc. for information and necessary action. The instructions of the Government of India were merely circulated and were not intended to be adopted by the State Govt. However, one Sh. Krishan Thakaran an employee of the Education Department filed CWP No.211351/95 in the Hon’ble Punjab and Haryana High Court claiming the benefit of fixation of pay under the instructions of Govt. of India letter referred to above. The writ petition filed by Sh. Krishan Thakaran was allowed by the Hon’ble High Court vide their order dated 18.04.95. Subsequently, a number of other employees also approached the Hon’ble High Court for extending the benefit of fixation of pay under the instructions ibid. In the light of decision rendered by the Hon’ble High Court in the case of Sh. Krishan Thakaran, the State Govt. after having reconsidered the whole matter, have now decided that Ex-Combatant Clerks re-employed on civil posts under the Haryana Government as Clerk on regular basis on or after 20th May, 1974 may be allowed the incremental benefit (equal to the number of completed years of service rendered in Armed Forces as Combatant Clerk).”

4. A collective homogenous perusal of the above instructions would reveal that there is not even a whisper of designation either in the Government of India instructions (Annexure P-1) or those issued by the State Government in tune with the Government of India instructions to accord the benefit of additional increment to the ones who had been serving as Combatant Clerks/Sepoys in the Indian Army. It is not in

dispute that the petitioner had rendered service in the military the Indian Army prior to joining as Clerk in the State government. In fact, a bare look at the discharge certificate dated 05.10.1974 (Annexure P-7) would reveal that his rank has been clearly stated to be that of a Sepoy/Clerk in Column No.1 therein, though, of course, in Column No.9 (c) it is stated that his Army Trade/Class/Qualification/Appointments was that of a Store-keeper Technical Class II (Two) Clerk.

5. It appears that while he was in army, he had acquired technical expertise of being a Store-keeper which is prescribed in Column No.9 (c) (supra) of the form but irrefragably that would not change his status of being Combatant Clerk in the Indian Army or his rank of being a Sepoy, as is borne out from the Certificate itself.

6. In the premise, I see no reason as to why benefit of the instructions, *ibid*, be not accorded to the petitioner. In this context reference may be had to judgment rendered by this Court in CWP No.11351 of 1995 dated 18.12.1995 titled “Krishant Thakran v. State of Haryana and others”, relevant where of is extracted herein below :

“ It is true that the petitioner is not entitled to the benefit of total military service for the purpose of seniority but so far as the fixation of pay of Ex-combatant is concerned, the same is governed by the instructions issued by the Government of India on 11.04.1963. The respondents have not contested the claim made by the petitioner that the instructions contained in Annexure P/4 are applicable in his case. This being the position, the pay of the petitioner has to be fixed in accordance with Annexure P/4 and as that was not done, we deem fit proper to issue a mandamus to the respondents to consider and decide the case of the petitioner for fixation of his pay in terms of the office memorandum of Annexure P/4. This action be taken by the respondents within three months of submission of a certified copy of this order we order accordingly.

The writ petition is allowed in the manner indicated above.”

7. I am in respectful agreement with the aforesaid view taken by my learned brother G. S. Singhvi, J. (as he then was in this Court) and therefore, in terms thereof, the instant writ petition is also allowed. The respondents are directed to accord the benefit of additional increment to the petitioner equal to service rendered in the army and grant consequential benefits along with arrears. The same would carry interest @ 5% per annum from the date of his induction till the date of its actual realization.

8. Needful exercise be carried out within a period of two months.

JULY 05, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No