

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.4332 of 2016 (O&M)

Date of Decision:12.07.2022

Balwinder Kumar Ranchal

.....Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Alka Chatrath, Advocate
for the petitioner.

Ms. Sunint Kaur, AAG., Punjab.

LISA GILL, J(Oral).

Prayer in this writ petition is for setting aside order dated 26.11.2015 passed by respondent no.2, whereby petitioner's claim for counting of service rendered during the Second National Emergency from 03.12.1971 to 26.03.1977 towards pensionary benefits, has been rejected.

It is pleaded that petitioner joined service in the Air Force on 15.11.1969 and worked continuously till 01.12.1984 when he was discharged. It is stated that petitioner was serving during Second National Emergency i.e., from 03.12.1971 to 25.03.1977. After discharge from Air Force, petitioner was selected as Junior Auditor Local Fund Accounts, Punjab, Gurdaspur Circle on 27.10.1992 and he superannuated on 30.06.2010. Petitioner seeks benefits of Military service towards seniority, increments and pension rendered during the Second National Emergency for the period 03.12.1971 to 26.03.1977 under the Punjab Government National Emergency (Concessions) Rules, 1956 (for short '1965 Rules'). It is further stated that the petitioner was not granted benefit of Military service rendered during the Second National Emergency towards increment and pension for which he filed CWP No. 8619 of 2014, which was partly allowed on

13.11.2014 and petitioner was held entitled to grant of benefit of Military service rendered by him during said period towards pension, but not towards increments. It was held by the Division Bench in the abovesaid decision that petitioner's reliance on notification dated 10.04.2012 for grant of benefit of Military service towards increment was misplaced. It is submitted that pursuant to passing of order dated 13.11.2014, petitioner's case was again rejected by the department vide impugned order dated 26.11.2015 while holding that since the petitioner is already getting pension from the Military service for the period in question, he is not entitled for the benefit of service rendered during the Second National Emergency for the purpose of civil pension yet again. It is specifically mentioned in the impugned order dated 26.11.2015 that the petitioner does not fulfill all the three conditions contained in Rule 8-B (b) of the Punjab Recruitment of Ex-servicemen Rules, 1982 (for short 1982 Rules) as amended in 2009 and thereafter in the year 2012. Defence Services Welfare Department, Punjab, also expressed its concurrence with the opinion of learned Advocate General, Punjab that relief claimed by the petitioner is not admissible, inasmuch as he is not entitled for benefit of Second Emergency in civil pension again.

At this stage, it is useful to refer to Rule 8-B (b) of the 1982 Rules which reads as under:-

“8-B. Increments and pension – Period of military service rendered during the Second National Emergency from 3rd December, 1971 to 28th March, 1977, shall count for increments and pension as under :-

xxxxxx

(b) **Pension** - The period of military service, referred to above, shall count towards pension only in case of an appointment to a permanent post under the Government, subject to the following conditions namely:-

- (i) The person concerned should not have earned a pension under military rules in respect of the military service in question;
- (ii) Any bonus or gratuity paid in respect of military service by the defence authorities shall have to be refunded to the State Government, and;
- (iii) The period, if any, between the date of discharge from military service and the date of appointment to any service or post under the Government shall count for pension, provided such period does not exceed one year. Any period exceeding one year but not exceeding three years may also be allowed to count for pension in exceptional cases under the orders of the Government.”

It is a matter of record that the petitioner having rendered Military service from 15.11.1969 to 30.11.1984 is in receipt of pension for the said period from Military Authorities. He joined civil service after a gap of about eight years on 31.10.1992 and retired from service on 30.06.2010. As petitioner is in receipt of pension for the period in question, his claim for benefit for the period of Second National Emergency *qua* pension again has been rightly rejected. Reliance on order dated 13.11.2014 in CWP No. 8619 of 2014 is of no avail to the petitioner. The bunch of writ petitions including that of the petitioner was decided by common order dated 26.11.2015 deciding the broad principle that in terms of the applicable rules, claim can be raised for pension and not increment for the period of Second National Emergency in case petitioner/s had not been appointed during this period. It has not been held by the Division Bench therein that petitioner would be entitled to benefit of pension *dehors* the specific provision as above.

Learned counsel for the petitioner is unable to point out any ground whatsoever which would entitle the petitioner for the benefit as claimed.

No other argument has been raised.

Writ petition is accordingly dismissed with no order as to costs.

12.07.2022

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned

:

Yes/No.

Whether reportable

:

Yes/No.