

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(224)

CWP No. 4418 of 2017

Date of Decision : 16.03.2022

Sh. Jawala Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Arora, Advocate for the petitioners.

Mr. Kannan Malik, A.A.G., Punjab.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed by the petitioners for the grant of benefit of their military service rendered during the second emergency for computing the pensionary benefits in terms of the Notification dated 15.10.2009 (Annexure P-3) read with Notification dated 10.04.2012 (Annexure P-4) coupled with the settled principle of law settled by the Division Bench in CWP No. 17661 of 2013 titled as ***Rajinder Singh Vs. State of Punjab and others.***

Learned counsel for the petitioners submits that keeping in view the fact that both the petitioners had rendered army service prior to the joining of the service of the Corporation, which service is to be counted as a qualifying service for computing the pensionary benefits but benefits of the

same are not being extended to them.

Upon notice of motion, the respondents have appeared and filed their reply and the claim of the petitioners is being controverted that as per the Notifications dated 15.10.2009 and 10.04.2012 (Annexures P-3 and P-4) respectively, the case of the petitioners is not covered.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The claim, which is being raised by the petitioners in the present petition is by misreading the Instructions, which are being relied upon by them. It is a conceded position that as per the said Instructions Annexures P-3 and P-4, the military service can only be counted towards pension in case, the employee concerned has not earned pension under the military rules in respect of the military service being asked to be counted as a qualifying service while claiming the pension from the State. The rule 8 (b) as detailed in Notification dated 15.10.2009 (Annexure P-3) reads as under :-

*“(b) **Pension** : The period of military services, 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 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 as per orders of the Government.”

Learned counsel for the petitioners very fairly submits that the petitioners are getting the pension for the service in question, for which the benefit is being asked from the respondent-State in the present case.

That being so, the claim of the petitioners, as being raised in the present petition, is not maintainable as they are not eligible for the grant of the benefits being claimed in this petition and the reliance being placed by the petitioners on Notifications dated 15.10.2009 and 10.04.2012 (Annexures P-3 and P-4) respectively is misplaced.

Keeping in view the above, the present petition is dismissed being devoid of merits.

March 16, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No