

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

**COCP-3138-2013 (O&M)
Date of decision: 05.05.2023**

B.K. Sachdeva

... Petitioner

Vs.

Avtar Singh and ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Kunal Dawar, Advocate and
Mr. Arjun Singh Rai, Advocate
for the petitioner.

Mr. Pawan Kumar Longia, DAG, Haryana.

Ms. Anju Arora, Advocate
for respondent No.3.

ARVIND SINGH SANGWAN, J. (ORAL)

The petitioner alleges violation of the order dated 28.04.2011, vide
which following directions were issued: -

*“5. By an order dated 05.09.1989, this Court was pleased to
direct that the case will be taken up after the hearing of the case
in CWP No.673 of 1988. CWP No.673 of 1988 is seen to have
been disposed of in line with the judgment in CWP No.382 of
1988. I have seen through the judgment of this Court in CWP
No.382 of 1988 and the point involved in the case was in relation*

to the manner of reckoning seniority for Class-I officers in Haryana Veterinary Service. Indisputably, the petitioner belonged to Haryana Veterinary Service. The Court in the above case was considering the manner of reckoning seniority in the light of provincial veterinary service. Dealing with the issue by making reference to Rules 19 and 30(1), the Bench held that the seniority will be counted from the date when he joined the Class-I service whether on probation or otherwise and the entire length of Class-I service has to be taken in fixing the date of seniority. This has relevant to us for on seeing whether the fact that the petitioner entered in the service on adhoc basis initially will come in the way of claiming the military service when he was promoted in Class-II service in the year, 1970 and further obtained a promotion to Class-I service in the year, 1976. I hold that as per the relevant rules considered in CWP No.382 of 1988, the petitioner must be deemed to have entered the service from the day he joined the above service and will be entitled to count the military service.

6. The petitioner is entitled to succeed on the reading of the rules 4 and 5 and also in view of how the other officers have been dealt with and how they secured the benefit of military service as going to count for their length of service. The reference to a decision in CWP No.382 of 1988 is merely incidental for

consideration of the fact of a person, who had joined the service on adhoc basis and how the length of service were to be reckoned. On a joint consideration of all the above issues, the petitioner is entitled to the reliefs as sought for but they shall be restricted only to the computation of the terminal benefits. The amount due to the petitioner by such computation shall be made within a period of 12 weeks from the date of receipt of copy of this order. The issue of seniority does not merit consideration now in view of the subsequent event that the petitioner himself was retired from service.

7. The writ petition is allowed to the above extent.”

Affidavit of the Director General, Animal Husbandry & Dairying, Haryana is on record, according to which, in compliance of the aforesaid order, terminal benefits, after counting the military service period i.e. 03 years, 06 months and 08 days, were released to the petitioner by virtue of appointment of Deputy Director/Joint Director. It is further stated that Accountant General, Haryana, vide letter dated 31.01.2014, issued revised pay fixation order w.e.f. 01.07.1993 and vide subsequent order dated 31.01.2014, has actually released the dues/balance gratuity of Rs.16,431/-, after counting military service period, in addition to amount of Rs.62,319/- already paid to the petitioner. It is also stated that delay was on account of non-providing the unique code, which was provided on 12.02.2014. It is further stated in the affidavit that grant of

pension/pension arrears in the scale of Rs.16400-20900/22400-24500 w.e.f. 01.01.1996 was erroneously sanctioned for the post of Director General, Animal Husbandry/Milk Commissioner, as the petitioner was never promoted on the said post and he was to be given benefit of the military service period only towards the terminal benefits and not towards the seniority or promotion on the said post.

Similar stand is taken in the affidavit of Additional Chief Secretary to Govt. of Haryana, Animal Husbandry & Dairying Department.

Since necessary compliance has been made, as this Bench is only to see whether there was any willful or intentional disobedience of the order, present petition is rendered as infructuous.

Liberty is granted to the petitioner to avail the alternative remedy, in accordance with law.

[ARVIND SINGH SANGWAN]
JUDGE

05.05.2023
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No