

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

**CR-4377-2013 (O&M)**

Date of decision: 07.08.2023

Prem Kumar

..Petitioner

Versus

State of Punjab and another

.Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. H.S.Saggu, Advocate for the petitioner

Mr. Sandeep Chopra, DAG, Punjab

**ANIL KSHETARPAL, J (Oral)**

This revision petition has been filed by the decree holder to assail the correctness of the order passed by the Executing Court on 19.03.2013.

In order to understand the controversy involved, some relevant facts, in brief, are required to be noticed. The petitioner herein filed a suit for the grant of decree of mandatory injunction directing the defendant to extend the full benefits of the military service to him from 05.04.1966 to 04.04.1971 and re-fix his pay accordingly. The petitioner, after having been relieved from military service joined Department of PWD, (B&R) The civil suit was decreed on 22.08.1995. The operative part of the decree reads as under:-

*“For the reasons recorded above, the suit of the plaintiff succeeds. I hereby decree the suit of the plaintiff for mandatory injunction as prayed for.*

*Decree sheet be made and file be consigned to the record room.”*

In the appeal filed by the State of Punjab, the decree was slightly modified by directing that the consequential orders shall be passed after granting the opportunity of hearing to those who are likely to be affected. The petitioner filed the first execution petition which was withdrawn on 16.01.1999 with the following order:-

*“Ld. G.P. for the J.D has placed on record copy of order of Hon’ble High Court, vide which, Revision petition filed by J.D against the dismissal of objection petition has been accepted. In view of the acceptance of the Revision petition of J.D, D.H has withdrawn the present execution application by way of making a separate statement. In view of this, execution application is dismissed as withdrawn as well as in view of the order of Hon’ble High Court dated 01.12.1998. Attached property of the J.D is ordered to be released immediately. Spurdar is directed to hand over possession of the attached property to the J.D immediately. Necessary intimation be sent and file be consigned to the record room.”*

In between, the parties came to the High Court in civil revision petition no.2609-1998, in which the court held that the services of the petitioner shall be governed by the Punjab Public Works Subordinate Service (Building and Roads Branch) Rules, 1934 (hereinafter referred to as ‘1934 Rules’). Thereafter, a second execution

petition was filed. The petitioner claims that he was entitled to be confirmed in the PWD, Department, Punjab, on completion of 2 years of joining.

On the other hand, it is the case of the State of Punjab that the petitioner's case for confirmation was considered in the year 1978 but due to his bad record, he was not found suitable. Thereafter, in the year 1984, once again his case was considered but he was not found suitable. Ultimately, he was confirmed in service on 11.07.1985 by giving him the benefit of previous military service from 05.04.1966 to 04.04.1971. The petitioner also asked for grant of benefits under the Assured Career Progression Scheme which the Department has already allowed.

The Executing Court has held that in the proceedings under Order 21 Rule 32 of the Code of Civil Procedure, 1908, the Court is required to see the implementation of the decree and the issue with regard to the date of confirmation of the petitioner cannot be gone into.

Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

Learned counsel representing the petitioner contends that once the petitioner was granted the benefits of the ACP Scheme, he will be deemed to have been confirmed on completion of 2 years as per the 1934 Rules.

This Court has considered the submissions. The State has stated that on account of bad record of the petitioner, he was confirmed

only on 11.07.1985. If the petitioner is aggrieved then the remedy, as rightly stated by the Executing Court, is to file a separate suit.

Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

07.08.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)**  
**JUDGE**