

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

CWP No.7632 of 2023

Date of Decision: 17.04.2023

Dr. (Major) Krishan Kumar

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bharat Bhushan Kaushik, Advocate
for the petitioner.

SUVIR SEHGAL J.

1. Petitioner has approached this Court for commanding the respondents to grant the benefit of military service rendered by him prior to the joining the civil service.

2. A brief resume of facts leading to the filing of the instant petition are that the petitioner joined the Indian Army on 21.04.2005 as a Short Service Commission Officer and was released on 20.04.2010. He was appointed as a Dental Surgeon and joined the post on 21.04.2010 at PHC Barota, Karnal in the Health Department against a post reserved for ex-servicemen category. He has submitted a representation (Annexure P-3) for grant of military service benefits and vide memorandum dated 09.06.2012 (Annexure P-4), his request was rejected. Claiming that the denial of the benefits is illegal, petitioner has approached this Court.

3. Counsel for the petitioner has placed reliance upon Rule 4.3 of the Punjab Civil Service Rules to contend that the military service has to be counted for the grant of pay protection, pay fixation, ACP scale and seniority. He has placed reliance upon orders, (Annexures P-5 to P-7) to

submit that persons similarly placed as the petitioners have been granted all the benefits whereas the petitioner has been discriminated. Reliance has also been placed by him upon the judgements of the Hon'ble Supreme Court as well as this Court to buttress his arguments.

4. I have heard counsel for the petitioner and examined the material placed on the record.

5. Concededly, the request of the petitioner for the grant of military service benefits was turned down by the respondent-authorities, vide memorandum (Annexure P-4) way back in the year 2012, which has not been challenged. No explanation whatsoever has been given in the writ petition for not approaching the Court in the last more than a decade. After the passing the adverse order by the respondent-authorities, petitioner went into a slumber and acquiesced to the situation and years later, he has woken up and filed the instant petition claiming that his counterparts, who were similarly placed, have been granted the military service benefits.

6. Laying down the legal principles, Hon'ble Supreme Court in **State of Uttar Pradesh and Ors. Vs Arvind Kumar Shrivastava and Ors. (2015) 1 SCC 347** has held that those persons, who do not timely challenge the wrongful action in their case and wake up after a long delay only because of the reason that their counterparts, who had approached the Court earlier in time succeeded in their efforts, such employees cannot claim the benefit of the judgement rendered in the case of similarly situated persons. These persons have to be treated as fence-sitters and delay and laches would be a valid ground to dismiss their case.

7. In view of the above discussion, this Court is of the opinion that the claim raised is barred by delay and laches.
8. Petition is dismissed.

(SUVIR SEHGAL)
JUDGE

April 17, 2023
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No