

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

CWP-4694-2017

Date of decision : 28.08.2023

**Jaggar Singh through LR Karnail Kaur
and others**

...Petitioners

Vs.

**Punjab State Power Corporation Ltd.,
Patiala and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

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

Ms. Gangadeep Kaur, Advocate
for respondent Nos.1 and 2.

DEEPAK MANCHANDA, J.(Oral)

The petitioners have filed this writ petition under Article 226/227 Constitution of India for issuance of directions, declaring the action of the respondents in not granting the petitioners benefit of the military service rendered by them either during first or second emergency or in both towards grant of pensionary benefits and increments in terms of Notifications dated 08.06.2004 (Annexure P-3) and 15.10.2009 (Annexure P-4) and also in terms of the law laid down by the Division Bench in LPA No.11 of 2008, CWP No.1515 of 2009 and CWP No.17661 of 2013 and further for quashing of impugned memo dated 17.11.2015 (Annexure P-12) and 10.12.2015 (Annexure P-13) in respect of petitioners No.1 and 5. It has been further prayed that directions be also issued to the respondents to consider and grant benefit of military service towards increments and qualifying service for pensionary

benefits with all consequential benefits forthwith along with interest for the delayed payment @ 12% per annum.

Briefly, the facts of the case are that the petitioners joined Indian Army/Air Force on different dates and were discharged from Military service on fulfilling the conditions of their enrolments on different dates. After their discharge, they joined different posts with the respondent-Punjab State Power Corporation Ltd. (erstwhile Punjab State Electricity Board) and superannuated accordingly. The claim of petitioners No.1 and 5 raised vide representations before the Authorities for grant of benefit of the military service rendered by them during first and second emergency was declined vide impugned letters dated 17.11.2015 (Annexure P-12) and 10.12.2015 (Annexure P-13), respectively. Thereafter, a demand notice dated 11.10.2016 (Annexure P-14) on behalf of the petitioner was served upon the respondents, but till date no action has been taken on said notice.

Learned counsel for the petitioners contends that the grievance of the petitioners is that the Military service rendered by them during first and second emergency, i.e. 26.10.1962 to 09.01.1968 and 03.12.1971 to 26.3.1977, respectively has not been counted towards increments and pension payable to them and therefore, they have not been granted the said benefit on their superannuation. It has been further contended that the petitioners are eligible for the said benefit in terms of the Punjab Government National Emergency Concession Rules, 1965 and Demobilized Armed Forces Personnel (Reservation of Vacancies in Technical Services) Rules, 1968 and the Punjab Recruitment of Ex-servicemen Rules, 1982. As per said Rules, the benefit of Military service rendered by the petitioners had to be counted towards

qualifying service for grant of pensionary benefits and increments in terms of Rules 2 and 4 of Punjab Government National Emergency (Concession) Rules, 1965.

Learned counsel further contends that the State of Punjab issued Notifications dated 8.6.2004 (Annexure P-3), whereby Rule 8-A was added in Punjab Recruitment of Ex-servicemen Rules, 1982 allowing benefit of increments and pension to those who served the nation during first emergency and Notification dated 15.10.2009(Annexure P-4), whereby Rule 8-B was added for grant of benefit of increment and pension to those who have served the nation during second emergency, which have duly been adopted by the respondent-Corporation.

Learned counsel also contends that the claim of the petitioners for grant of benefit of service rendered during Military service is squarely covered by various judicial pronouncements. In support of his contention, he has placed reliance upon the orders passed by this Court in CWP-1515-2009, titled as “Pritam Singh Cheema Vs. State of Punjab and another” decided on 15.03.2010 (Annexure P-5), Division Bench decision dated 04.10.2008 (Annexure P-6) rendered in LPA-11-2008, titled as “Dalbara Singh Vs. State of Punjab and others” and another decision dated 13.11.2014 (Annexure P-8) passed by Division bench of this Court in “Rajinder Singh Vs. State of Punjab and others”, 2015 (1) S.C.T.157 and prays for disposal of the present writ petition.

On the other hand, learned counsel representing the respondents while referring to the reply dated 15.12.2018 submits that the Government of Punjab, Department of Personnel and Administrative Reforms had issued

Rules regulating recruitment of Ex-serviceman to the State Civil Services and the posts connected to the affairs of State of Punjab in 1982, which were amended from time to time. The respondents have relied upon the Rule 8 of the Punjab Recruitment of Ex-Servicemen Rules, 1982, which stands amended vide notification dated 08.06.2004. Thereafter, vide notification dated 15.10.2009, it was further amended. She submits that as per the rules, benefit of services rendered during first and second emergency, i.e. 26.10.1962 to 09.01.1968 and 03.12.1971 to 26.3.1977 can only be given to the incumbent, if he has joined and rendered the military service during the emergency and neither prior to that nor after that. The petitioners have joined the military service after the proclamation of first emergency and prior to the declaration of second emergency, therefore, they are not entitled for any service benefit and the service rendered by them cannot be counted as military service, therefore, he prays for dismissal of the present petition. However, it is not denied by the learned counsel for the respondents that the petitioners have moved representations.

I have heard learned counsel for the parties and have gone through the case file carefully.

Rule 8-A, Increments and pension– Period of military service rendered during the First National Emergency from 26th October, 1962 to 9th January, 1968 shall count for increments and pension is as under:-

(i) Increments - The period spend by a person on military service (restricted to emergency period from 26th October, 1962 to 9th January, 1968) after attaining the minimum age prescribed for appointment to any service or post, to which he is appointed, shall count for increments. Where no such minimum age is prescribed the minimum age shall be as laid down in Rules 3.9, 3.10 and 3.11 of the Punjab Civil Services Rules Volume II. This concession shall however, be admissible only on first appointment.

(ii) Pension - The period of military service mentioned in clause shall count toward pension only in the case of appointments to permanent services of posts, subject to the following conditions:-

(1) The person concerned should not have earned a pension under military rules in respect of the military service in question.

(2) Any bonus or gratuity paid in respect of military service by the defence authorities shall have to be refunded to the State Government.

(3) 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.”

Rule 8-A reproduced above deals with the first emergency and the period is from 26.10.1962 till 09.01.1968. Further Rule 8-B deals with the second emergency, which remained in operation from 03.12.1971 till 25.03.1977. Rule 8-B is as under:-

“Rule 8-B Increments and Pension – Period of military service rendered during the Second National Emergency from 3rd December, 1971 to 25th March, 1977 shall count for increments and pension as under: -

a) Increments- The increments for the aforesaid service shall be paid to those persons only, who rendered service during the aforementioned period. This benefit will, however, be given only at the time of making first appointment on regular basis on a civil post or service under the Government. However, these increments will be taken into account when the pay of a person is subsequently fixed on account of his promotion, selection, new recruitment or revision of pay scale or otherwise;

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.”

During the course of arguments, learned counsel for the petitioners has produced the order dated 25.09.2020 passed by this Court in CWP-10805-2020, titled as “*Jarnail Singh Vs. Punjab State Power Corporation Ltd.and others*” and submits that the case of the petitioners is squarely covered by this judgment and prays that the petition be disposed of in the same terms.

The above fact is not disputed by learned counsel representing the respondents.

In view of the above position as admitted, the case of the petitioners is squarely covered by the aforesaid judgment dated 10805-2020 passed in Jarnail Singh’s case (supra). Accordingly, the present writ petition is disposed of with a direction to the respondents to examine the prayer of the petitioners afresh i.e. for grant of benefit of military service towards pension, by taking into consideration the above-mentioned judgments i.e. Annexures P-5, 6 and 8 and judgment dated 25.09.2020 passed in CWP-10805-2020.

Let the needful be done within three months from the date of receipt of copy of this order.

(DEEPAK MANCHANDA)
JUDGE

28.08.2023
Gulati/vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No