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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1)

CWP-3357-2021
Date of Decision:14.02.2024

JASWANT SINGH

..... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..... Respondents

2)

CWP-3358-2021

VICTOR

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. P.K. Bansal, Advocate
for the petitioner.

Ms. Anu Chatrath, Addl.AG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1.
- By this common order CWP-3357-2021 and CWP-3358-2021 are being disposed of since issues involved in both the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-3357-2021.
2.
- The petitioner through instant petition under Article 226 of the Constitution of India is seeking direction to respondents to count the military service rendered by petitioner during the First National Emergency period from 01.11.1962 to 10.01.1968 as well as Second National Emergency period from 03.12.1971 to 25.03.1977 as per Punjab Recruitment of Ex-Serviceman Rules, 1982.
3.
- The petitioner on 01.11.1962 joined military service and he

remained in service till 31.10.1984. The petitioner as Ex-Serviceman joined respondent-State on 04.07.1989 and retired on 30.04.2001 on attaining the age of superannuation. The petitioner rendered military service during First National Emergency i.e. from 01.11.1962 to 09.01.1968 as well as Second National Emergency period i.e. from 03.12.1971 to 25.03.1977. The petitioner is of the opinion that as per Rule 8-B of Punjab Recruitment of Ex-Serviceman Rules, 1982 (for short 'Recruitment Rules, 1982'), he is entitled to increment for service rendered during First and Second National Emergency.

4. Learned counsel for the petitioner submits that Recruitment Rules, 1982 were amended vide notification dated 08.06.2004 and thereafter, vide notification dated 15.10.2009. The petitioner has been granted benefit of service rendered during First National Emergency and as per amended rules, he is also entitled to increment with respect to service rendered during Second National Emergency.

5. Per contra, learned State counsel submits that question of entitlement of increment for service rendered during Second National Emergency was considered and adjudicated by Division Bench of this Court in '**Rajinder Singh Vs. State of Punjab and others**' 2014 SCC **OnLine P&H 21678**. The Division Bench has clearly held that benefit of military service rendered during Second National Emergency for the purpose of increment is not available to those employees who have retired prior to 01.12.2011. The petitioners concededly have retired prior to 01.12.2011, thus, they are not entitled to benefit of increment for service rendered during Second National Emergency.

6. I have heard arguments of both sides and scrutinized the

record with their able assistance.

7. A Division Bench of this Court while adverting with identical issue has held that employees who have retired prior to 01.12.2011 are not entitled to increment for service rendered during Second National Emergency. The relevant extracts of the judgment read as:

“From the above quoted Rules, it is clear that so far as the benefit of military service rendered during the Second National Emergency towards increments is concerned, ex-servicemen who had joined and rendered service during the period of Second National Emergency were only held entitled to the same. So far as the benefit of pension is concerned, it was inconsequential whether the ex-servicemen had joined the military service during the Second National Emergency period or not. Thus, so far as the benefits of military service towards increments is concerned, all the petitioners having joined the military service prior to the Second National Emergency are held not entitled to the same. The petitioners reliance on the notification dated 10.4.2012 (as reproduced above) for the grant of benefit of military service towards increments is misplaced. A perusal of the notification dated 10.4.2012 would show that the same is applicable only to those ex-servicemen who are in the service of the Government as on 1.12.2011 or appointed thereafter. It is the admitted position that none of the petitioners were in the service of the government as on 1.12.2011 as all of them had retired earlier. However, so far as the pension is concerned, as there is no stipulation in the 2009 Rules that the benefit of military service during the Second National Emergency towards pension would be given only to those incumbents who joined the military service during the Second National Emergency period, all the petitioners would be entitled to the grant of military service

benefit towards pension.

Accordingly, the writ petitions are partly allowed to the extent that the petitioners are held entitled to the grant of benefit of military service rendered by them during the Second National Emergency towards pension. However, they are held not entitled to the grant of any benefit of their military service rendered during the Second National Emergency towards increments.”

8. In the case in hand, the petitioners concededly retired prior to 01.12.2011, thus, their case is squarely covered by aforesaid judgment. They are not entitled to increment for the military service rendered during Second National Emergency. The petitioners concededly have been granted increment with respect to service rendered during First National Emergency.
9. In the wake of above discussion and findings, the present petition sans merit and deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

14.02.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No