



CWP-2695-2024

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

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CWP-2695-2024

Date of decision: 09.05.2024

SANT KUMAR SINGH

....PETITIONER

Vs.

UNION OF INDIA AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vikas Bali, Advocate
for the petitioner.

Mr. Dheeraj Jain, Senior Panel Counsel
for the respondent-Union of India.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of communications dated 19.03.2022 (Annexure P-10), 12.05.2022 (Annexure P-12) and letter dated 26.03.2023 (Annexure P-18) whereby claim of petitioner *qua* Central Government Health Scheme (for short 'CGHS') has been declined.

2. The petitioner joined Border Security Force (for short 'BSF') as Assistant Commandant on 17.09.1984. He remained with BSF for more than 21 years and came to be absorbed in Punjab Police on 02.12.2005. The State of Punjab with respect to absorption of officers of Paramilitary Forces has framed Rules known as "Punjab Absorption of Officers of the Paramilitary Forces (Group-A) Service Rules, 2005" (for short '2005 Rules').

3. The petitioner was absorbed in terms of 2005 Rules. He has retired from Punjab Government on 30.06.2021 as Additional Director General of

Police. On his retirement, 'Form Pension 10' was filed wherein it was jotted
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down that All India Service Rules would be applicable to him. He requested the respondent to grant him benefit of CGHS. The respondent issued CGHS Card to petitioner as well as his wife. However, by impugned letters, respondent formed an opinion that petitioner is not entitled to benefits of CGHS. Accordingly, his membership cards were also cancelled.

4. Mr. Vikas Bali, Advocate submits that petitioner worked with BSF for more than 21 years and as per applicable rules, an officer after completion of 20 years of service with BSF, is entitled to benefits of CGHS. He was absorbed in Punjab Police and retired as ADGP. He was subjected to Punjab Civil Service Rules as well as All India Services Rules. The respondent in reply to frequently ask questions has clarified that All India Service Pensioners who retired while in service under the State, at their option are entitled to benefit of CGHS.

5. Mr. Dheeraj Jain, Senior Panel Counsel, submits that service of petitioner with Punjab Police was governed by 2005 Rules. After absorption, he was subjected to Punjab Civil Services (Punishment and Appeal), Rules, 1970 as well as was entitled to increments as per Rules and Regulations of Punjab Government. After retirement, he was no more governed by All India Service Rules, thus, he cannot claim benefit of CGHS. He had not retired from BSF whereas he was absorbed by Punjab Government.

6. I have heard the arguments of learned counsel for the parties and perused the record.

7. The conceded position emerging from the record is that the petitioner served B.S.F. for more than 21 years. If an officer retires from B.S.F. after completing 20 years of service, he is entitled to benefit of CGHS. The petitioner was absorbed in the State of Punjab on 02.12.2005 in terms of 2005 Rules. He retired from Punjab Police as ADGP on 30.06.2021. As per 'Pension



Form', he is governed by All India Service Rules. He retired on attaining the age of 60 years.

8. The respondent is heavily placing reliance upon 2005 Rules whereunder the petitioner was absorbed in the State of Punjab. The State of Punjab has made specific rules for absorption of officers of paramilitary forces. From the perusal of these rules, it comes out that the absorbed officers were subjected to hybrid rules i.e. Punjab Civil Service Rules as well as All India Service Rules. Rule 5(2) of 2005 Rules provides that pay of the officer at the time of absorption shall be protected and he would earn increments in the said pay scale as per Punjab Civil Service Rules. Sub-Rule(4) of Rule 5 provides that if pay scale of the post in the respective force is revised by the Central Government, the corresponding pay scale of the absorbed officer shall be revised by the State Government. Rule 6 provides that an absorbed officer shall be entitled to promotion on the date on which his junior in parent post has been promoted. The promotion shall be made according to relevant rules and instructions of Punjab Government. Rule 9 provides that absorbed officer shall not be entitled to claim benefit of seniority with the members of Punjab Police Service, however, his *inter se* seniority should be determined from the date of joining his respective parent force. The retirement age, on attaining the rank of D.I.G., shall be as All India Service Officers. Rules 5, 6, 9 and 10 of 2005 Rules are reproduced as below:-

- “5. (1) *The members of the service shall be entitled to the pay scales as mentioned in Appendix 'A'.*
- (2) *The members of the service on their absorption shall be entitled to get the pay in the rank and scale of pay in which they were drawing pay, while they were on deputation in the Punjab Police. However, their pay shall be protected at the*



stage at which, they were drawing at the time of deputation, and shall earn increments in the said pay scales as per the Punjab Civil Services Rules.

- (3) The members of the service shall be paid special pay or special allowances, as the case may be, if posted on a post, carrying such special pay or special allowance.*
- (4) If the pay scales of the posts in the respective Forces from which the members of the service were taken on deputation, are revised by the Central Government, then the corresponding pay scales of the members of the service shall also accordingly be revised by the Punjab Government.*
- (5) A member of the service shall be given the same rank, which has been given to a person, who was junior to him in his parent Force, had he remained in that Force.*
- 6.** *A member of the service will be entitled for consideration for promotion on the date on which his junior in parent Force, is promoted. But the promotion shall be made according to the relevant rules and instructions of the Punjab Government.*

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- 9.** *The members of the service shall not to be entitled to claim benefit of Seniority with the members of the Punjab Police Service. However, the inter se seniority of the members of the service will be determined from the date of joining their respective parent forces.*
- 10.** *The retirement age of the members of the service shall be 58 years or as may be revised by the Punjab Government from time to time: Provided that if a member of the service reaches the rank of the Deputy Inspector General of Police (Ex-Cadre), the retirement age shall be such, as is of the Indian Police Service Officers.”*

9. From the conjoint reading of afore-cited Rules, it is evident beyond the pale of doubt that an officer of paramilitary forces on absorption in the Punjab Police Force shall be subjected to hybrid rules i.e. Rules of State of Punjab as well as All India Service Rules.

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10. 'Form Pension 10' which was generated at the time of retirement discloses that petitioner is subject to All India Service Rules. The respondent in reply to 'Frequently Asked Questions' has disclosed list of officials who are eligible to said benefit. Serial No.23 deals with persons like the petitioner. It provides that employees of 'All India Service Rules who retire while in service under the State', at their option, would be eligible to benefit of CGHS. The petitioner had served B.S.F. for more than 20 years and an officer after serving 20 years is entitled to benefits of CGHS.

11. All the afore-cited facts and Rules collectively indicate that petitioner is entitled to benefit of CGHS.

12. In the wake of aforesaid facts and findings, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The impugned communications dated 19.03.2022, 12.05.2022 and letter dated 26.03.2023 are hereby set aside and respondents are directed to extend benefits of CGHS to the petitioner.

09.05.2024
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[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No