

CWP-11688-1999 (O&M)

2024:PHHC:136818



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-11688-1999 (O&M)
Date of Decision: 18.10.2024

Capt. Tej Ram Dhariwal

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Ankur Sheoran, Advocate for the petitioner.

Mr. Ashish Rawal, Advocate for respondents No.1 and 4.

Mr. R.S. Bhatia, Advocate for respondents No.2 and 3.

ALOK JAIN, J. (Oral)

1. The present petition has been filed *inter alia* praying for issuance of a writ in the nature of *certiorari* to declare the Circular (Annexures P-3 and P-4) as arbitrary and discriminatory to the extent that those Ex-Servicemen who have been appointed in the bank services in the revised scales were deprived of the benefit of increment for all times.

2. The brief facts narrated by learned *senior* counsel for the petitioner are that the petitioner had joined in the Indian Army under the Short Service Commission on 15.03.1970 and was discharged on 10.06.1980 after rendering 10 years and 03 months of service. Six years thereafter, the petitioner joined the Central Bank of India as Assistant Security Officer and was granted the benefit of 11 increments (Annexure P-1) taking his number of years of service in the Army. The said increments



were withdrawn and was reduced to only four increments and subsequently, his four increments were also withdrawn, vide letter dated 03.11.1988, whereby, the Assistant Regional Manager also directed to recover the excess payment made to the petitioner on account of wrong fixation of his pay. The petitioner filed a representation *qua* the same which ultimately was rejected by the authorities on 21.10.1998 and hence, the present petition was filed.

3. During the pendency of the present petition, the petitioner amended the writ petition to challenge the Circulars (Annexures P-3 & P-4) also, on the ground that the same imposed an artificial and arbitrary classification which contravenes the spirit of the decision to grant the benefit of advance increments to the petitioner.

4. Learned counsel for the petitioner strongly argued through an illustration which effectively clarifies the controversy. Suppose "A" Ex-Short Service Commissioned Officer discharged from the army after rendering 10 years service on 31.12.1985 and joined as Assistant Security Officer on 02.12.1987, he will not get any benefit of 10 years service and reason is that when he was discharged from the army as Captain, the pay scale of the Captain in the army was Rs.750-1800 and when he joined as Assistant Security Officer on 02.12.1987 the pay scale of Assistant Security Officer was revised to Rs.2100-4020/- so he will not get any benefit at all in light of the instructions (P-13). On the other hand suppose another Ex-Short Service Commissioned Officer "B" who had rendered service in the army only for six years and discharged from the army on 02.02.1986 and joined as Assistant Security Officer in Oct. 1992, he will get the benefit of



six increments. Above illustration makes it clear that if any Ex-Short Service Commissioned Officer joined the job in the bank when revision of pay-scale has already taken place in the bank, he will be deprived of the benefit of advance increments.

5. Learned senior counsel for the petitioner further submits that there is no foundation for this classification and the primary intent of the legislature for the policy was to grant some benefit to the individuals who had served during an emergency time and rendered services to the nation. He further submits that there is an un-required distinction between two similarly situated employees which create discrimination regarding the emoluments and hence, the circulars are bad in the eyes of law. He further submits that once the authorities had granted the said increments to the petitioner, the same could not have been withdrawn. Hence, the present petition.

6. Learned counsel for the respondents have countered these arguments by submitting that the purpose of the Circular dated 29.11.1984 regarding fixation of pay of Ex-emergency Commissioned Officers and Ex-Short Service Commissioned Officer in the Civil post, was to protect the last drawn pay of such Officers. With this intent, the increments were to be granted. It is submitted that the petitioner's last drawn pay was Rs.1450/- and when the petitioner joined the services of the bank, he was given Rs.1415/- since, there was minimal difference between his last drawn pay and the pay given to the petitioner upon his joining and therefore, he was rightfully not entitled for the increments.

7. Heard learned counsel for the parties at length.



8. In the light of above, the Court returns to the finding that the policy (Annexure P-1) clearly records that it was issued when a question was raised as to how the pay of those Emergency Commissioned Officers and Ex-Short Commissioned Officers who joined the pre-commissioned training on 10.01.1968 should be fixed on their appointment on various civil posts. The matter was considered by the authorities and it was decided that those officers may be granted advanced increments equal to the completed years of service rendered by them in the Armed Forces, based on the basic pay equivalent to or higher than the minimum scale attached to the civil post. However, the pay so determined should not exceed the basic pay last drawn by them in the Armed Forces.

9. The contention raised by learned counsel for the respondents seems to have weight, as the said policies were only meant to protect the last pay drawn by the person while rendering his services in the Army and just to avoid any anomaly, this benefit was introduced to ensure no discrepancy arise between the last pay drawn and the pay received upon joining the bank.

10. In the light of above, the present petition seems to be devoid of any merit and accordingly, the same is dismissed. However, learned counsel for the petitioner has raised the issue that the respondents could not have recovered the amount already paid to the petitioner as he did not misrepresented and there is no fault on the part of the petitioner.

11. Keeping in view the said question, the petitioner would be at liberty to move an application/representation to the bank authorities along with calculation of the amount recovered by virtue of withdrawal of the

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increments initially granted to the petitioner and the authorities shall consider and release the said amount to the legal heirs of the petitioner with a simple interest @ 6% as no recovery should be effected on account of the fact that the petitioner was not at fault when the increments had been granted. Let the needful be done within a period of six months from today.

18.10.2024
D.Bansal

(ALOK JAIN)
JUDGE

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