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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16758-2000 (O&M)
Date of Decision: 25.11.2024

S.P. NAGPAL

..... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Kulwant Singh, Advocate
for the petitioner.

Mr. Parveen Mehta, DAG, Haryana.

Mr. A. S. Virk, Advocate
for respondent- Nos. 2 and 3.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 02.12.1999, Annexure P-7; and a writ of *mandamus* directing the respondents to grant the benefit of military service rendered by the petitioner in the first National Emergency from 26.10.1962 to 10.01.1968 with all consequential benefits, including re-fixation of pay and revised pension, etc.

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2. Learned counsel for the petitioner contends that the petitioner is entitled to the claimed benefits for the military service rendered by him during first National Emergency period. It was only due to delay/in-action on the respondents' part that the petitioner had been deprived of his seniority and promotion, and superannuated from service on the post he was initially appointed, i.e., Junior Store Keeper.

3. *Per contra*, Mr. A.S. Virk, learned counsel for second and third respondent, contends that all the demanded benefits have already been given to the petitioner. The College has filed written statement to that effect as well, that he has been given the benefit of military service rendered for five years, one month and six days; all other benefits including increments and seniority have also been given. The Promotion Committee considered him for promotion as Assistant in its meeting held on 06.06.1986; however, he could not be recommended as per the rules. In 1990, the petitioner had himself intimated the Committee that he was not interested to get promotion for the post of Assistant since he was already drawing salary in the pay scale meant for the post. Thereafter, he did not appear before the Promotion Committee in its meeting held in July, 1996, nor did he apply for promotion later in 1998, and retired from service on attaining the age of superannuation with effect from 31.10.1998. Therefore, it was only on account of the petitioner's refusal to accept the promotional post that he could not be promoted. The College cannot be blamed for the same. Learned counsel further referred to the Board of Governor's decision, dated 02.09.1996, whereby the benefit of seniority on account of military service rendered



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during the National Emergency stood granted to the petitioner, along with other similarly situated College employees.

3.1. Learned counsel has also pointed out that at the time of petitioner's superannuation from service, pension scheme was not applicable for the College employees, as it was introduced only in 2013. The petitioner was, accordingly, considered for grant of pensionary benefits also by adding his military service to twenty six years eleven months and twenty one days of service rendered in the College. The admissible superannuation pension was so released to him vide PPO dated 28.05.2013.

3.2. Lastly, it has been contended by the learned counsel that the post of Storekeeper held by the petitioner was different in nature and cadre as compared to that of Clerk held by P.B. Anand, and the former therefore could not claim any benefit on the basis of seniority *vis-a-vis* P.B. Anand. Besides the joint seniority list, Annexure P-8, relied upon by the petitioner to claim the benefit was never approved by the respondents.

4. Heard.

5. It is apparent on record that the benefits admissible to the petitioner on the basis of Military service rendered during the first National Emergency from 26.10.1962 to 10.01.1968 have already been given to him. There is no denying the fact that his pay was increased by giving the benefit of additional increments, and his service was also counted for seniority as well as other benefits including the pension, which was also released to him by the College in May 2013. So far as promotion to the post of Assistant is concerned, the same was willingly refused by the petitioner himself, and no

blame can be attributed to the College on that account. Finally, his claim for seniority as Storekeeper *vis-a-vis* the incumbent of a post of Clerk, has no basis. These two posts are in different cadres, and no benefit of seniority can be claimed by the petitioner by challenging the seniority of a cadre he does not belong to.

5. In view thereof, there is no merit in the petition, and it stands dismissed.
6. Pending miscellaneous application(s), if any, shall also stand(s) disposed of.

25.11.2024
Seema

(TRIBHUVAN DAHIYA)
JUDGE

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