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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision:20.01.2024

NASIB SINGH

... APPELLANT

VS.

PUNJAB STATE ELECTRICITY BOARD AND OTHERS
... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Karan Diwan, Advocate for
Mr. Sidharth Sarup, Advocate for the appellant.

Mr. Harpreet Singh, Advocate for the respondents.

SUVIR SEHGAL J. (ORAL)

1. Mr. Harpreet Singh, Advocate has put in appearance on behalf of the respondents and has filed Memorandum of Appearance, which is taken on record.
2. Plaintiff-appellant is in second appeal before this Court challenging the concurrent finding of fact recorded by both the Courts below.
3. Facts, in brief, may be noticed.
4. Plaintiff joined the Army on 09.11.1960 and was discharged on 28.08.1975/30.11.1975. He joined service with the Punjab State Electricity Board (hereinafter referred to as the defendants) on

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19.06.1978 on a Class IV post. He was initially posted at Chandigarh and then transferred to Ropar Thermal Plant. Claiming that he had not been paid the benefit of military service, he filed civil suit in the year 1993 for re-fixation of pay and payment of revised scales, etc.

5. Upon service, defendants contested the suit by taking various objections. It was submitted that the plaintiff-appellant was appointed as a Peon on 10.07.1979 on regular basis by giving him benefit of military service and his pay was fixed higher than the last pay drawn by him in the Army. It was stated that the suit was barred by limitation and that the plaintiff is not entitled to the military service as he had not joined the Army during the proclamation of emergency. Replication was filed and plaintiff-appellant controverted the stand taken by the defendants. After framing of issues and leading of evidence by the parties, Trial Court dismissed the suit by judgment and decree dated 01.03.1995 being barred by time and it was held that plaintiff-appellant was not entitled to military service benefit. He remained unsuccessful before the First Appellate Court, which rejected the appeal by judgment and decree dated 21.10.1997.

6. I have heard counsel for the parties and examined the record with their able assistance.

7. The legal position has been settled by the Supreme Court in **State of Punjab and others Versus Harbhajan Singh and another (2007) 12 SCC 549** that an employee, who joins the military service during the emergency is entitled to the benefit of military service. It is evident from the narration of facts noticed above that the plaintiff had

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joined the military service prior to imposition of emergency from 26.10.1962 to 09.01.1968 and he was serving the Army authorities, when the proclamation was declared. He is, therefore, not entitled to the benefit of military service. Still further, after having joined the civil service in 1979, he did not claim the benefit of military service till the filing of the suit in 1993. Record further shows that his pay in civil service was fixed higher than the last pay drawn by him in the military department.

8. When examined from all possible angles, this Court is of the firm view that there is no infirmity or illegality in the judgments and decrees passed by the Courts below
9. Finding no merit in appeal, it is hereby dismissed.
10. Pending application(s), if any, shall stand disposed of.

20.01.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No