

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

2024:PHHC:001752
CWP-27106-2016
Date of Decision: 09.01.2024

Harjit Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Cyrus Chauhan, Advocate for
Mr. M.K. Dogra, Advocate for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner is a retired employee of the Punjab Government. The writ petition has been filed by him praying to direct the respondents to count qualifying service rendered by him with Indian Army before joining as Clerk with the Zila Sainik Board, Ferozepur.
2. The petitioner has stated that he served Indian Army as a Sepoy from 01.06.1976 to 07.12.1981. Thereafter he was appointed as Clerk with the Zila Sainik Board on 21.09.1982 and after having joined civil services, he prayed for counting his earlier period of service rendered with the armed forces in terms of Rule 4.3 (a) of the Punjab Civil Services Rules (Volume-II). The Treasury Officer directed the petitioner to deposit the amount of gratuity as received from the armed forces at the time of discharge vide letter dated 04.03.1996 and in response thereto, the petitioner admittedly deposited the amount with the District Treasury Office, Faridkot on 18.04.1996.

However, services of the petitioner were not counted. Representations have been moved from time to time and the petitioner was also granted condonation for the gap of the intervening period i.e. from the date he was relieved from armed forces till the date when he joined the civil services. The petitioner superannuated on 30.06.2010 but his previous service with the armed forces was not counted for the purpose of total qualifying service and the for the purpose of release of his complete retiral benefits.

3. The respondents have filed their reply stating that because the petitioner sought voluntary discharge from the armed forces and the petitioner's military services was not pensionable, he could not claim the said period of services for the purpose of treating his qualifying service.

4. I have considered the submissions.

5. Rule 4.3 of the Punjab Civil Services Rule, Volume-II, reads as follows:-

“4.3. (a) Service rendered by an employee belonging to one of the classes mentioned in the schedule below after attaining the age of 18 years, which is pensionable under military rules, but which terminates before a pension has been earned in respect of it, may, at the discretion of Government, be allowed to count, when followed by service qualifying for pension under civil rules, as part of such service: Provided that any bonus or gratuity received in lieu of pensions, on or since, discharge from military service, shall be refunded in such number of monthly instalments, not normally exceeding 36 and beginning from such

date, as in each case, the Government may decide. Service so allowed to count shall, however, be restricted to service, within or outside the employees unit or department, in India or elsewhere, which has been paid for from Indian revenues or for which a pensionary contribution has been received by Indian revenues. In the case of Defence Security Corps personnel re-employed in any civil posts, however, only half of the service rendered by them in the Defence Security Corps shall count for the purpose of pensionary benefits.

(b) Service pensionable under military rules which does not terminate before a pension has been earned in respect of it shall not be allowed to count for pension under civil rules without the sanction of the competent authority.”

6. Thus, even if the service terminates before pension has been earned, then too the said services are liable to be counted as qualifying service for pension. Since the petitioner has already deposited the gratuity amount with the respondents, there was no occasion, therefore, to have denied the petitioner his rightful claim for counting his services rendered with the armed forces from 1976 to 1981 (supra). The reason coming forward on behalf of the respondents of the petitioner taking the discharge voluntarily, has no nexus to the rule. The argument advanced is found to be without any basis. The discharge from armed forces may be for several reasons. However, the fact that the petitioner has served with the armed forces cannot be disputed.

7. In view of above, the writ petition deserves to be allowed and is accordingly allowed with directions to the respondents to revise the pension of the petitioner by counting the period of service rendered by him from 01.06.1976 to 07.12.1981 and accordingly revise his other retiral benefits including gratuity etc. and release the payment within a period of three months henceforth.
8. No costs.
9. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)

JUDGE

09.01.2024

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1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No